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UNITED STATES DISTRICT COURT

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CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

11

12 CORY SPENCER, an individual;  
DIANA MILENA REED, an  
13 individual; and COASTAL  
PROTECTION RANGERS, INC., a  
14 California non-profit public benefit  
corporation,

15 Plaintiffs,

16 vs.

17 LUNADA BAY BOYS; THE  
18 INDIVIDUAL MEMBERS OF THE  
LUNADA BAY BOYS, including but  
19 not limited to SANG LEE, BRANT  
BLAKEMAN, ALAN JOHNSTON  
20 AKA JALIAN JOHNSTON,  
MICHAEL RAE PAPAYANS,  
21 ANGELO FERRARA, FRANK  
FERRARA, CHARLIE FERRARA;  
22 and \_\_\_N.F.\_\_\_; CITY OF PALOS  
VERDES ESTATES; CHIEF OF  
23 POLICE JEFF KEPLEY, in his  
representative capacity; and DOES  
24 1-10,

25 Defendants.

CASE NO. 2:16-cv-02129-SJO (RAOx)

Assigned District Judge Hon. S. James  
Otero, Courtroom 10C

Discovery Assigned to Magistrate Judge  
Hon. Rozella A. Oliver

**DEFENDANT SANG LEE'S  
RESPONSE IN OPPOSITION TO  
PLAINTIFFS' ADDITIONAL  
MATERIAL FACTS IN  
OPPOSITION TO INDIVIDUAL  
DEFENDANTS' MOTIONS FOR  
SUMMARY JUDGMENT OR, IN  
THE ALTERNATIVE, SUMMARY  
ADJUDICATION**

Date: September 5, 2017  
Time: 10:00 a.m.  
Crtrm.: 10C

Complaint filed: March 29, 2016  
Trial Date: November 7, 2017

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27 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

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4851-8905-6589.1

2:16-cv-2129

DEFENDANT SANG LEE'S RESPONSE IN OPPOSITION TO PLAINTIFFS' ADDITIONAL MATERIAL FACTS  
IN OPPOSITION TO INDIVIDUAL DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT OR, IN THE  
ALTERNATIVE, SUMMARY ADJUDICATION

1 Defendant Sang Lee (“Defendant Lee”) hereby submits the following  
 2 Response in Opposition to Plaintiffs’ Additional Material Facts in Opposition to  
 3 Individual Defendants’ Motions for Summary Judgment or, in the alternative,  
 4 Summary Adjudication (“Motion”).

5 **RESPONSE TO**

6 **Issue #1: Lunada Bay Is A Unique Part Of the California Coast And A**  
 7 **Public Beach Owned By the City, And Under A Grant From The State of**  
 8 **California, Is Reserved To the People of California**

<b><u>Plaintiffs’ Additional Material Facts:</u></b>	<b><u>Defendant Lee’s Response to Plaintiffs’ Additional Material Facts:</u></b>
<p>11 1. Palos Verdes Estates Shoreline                      12 Preserve and specifically Lunada                      13 Bay constitute an asset of priceless                      14 value, and exceptional and                      15 dramatic beauty. Lunada Bay is                      16 owned by the City and is a world                      17 class wave.</p> <p>18 <b><u>Plaintiffs’ Evidence:</u></b>                      19 City Responses to Plaintiffs’ Separate                      20 Statement. Undisputed Material Facts                      21 ISO Class Certification [Docket                      22 No. 189] Nos. 1 (“Lunada Bay is owned                      23 by the City of Palos Verdes Estates and                      24 is a public beach”) (“Lunada Bay is a                      25 unique world class surfing site, and                      26 offers many recreational opportunities”),                      27 5; Willis Decl. ISO Opp. to City MSJ, ¶¶</p>	<p>1. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.</p>

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1	<b><u>Plaintiffs’ Additional Material Facts:</u></b>	<b><u>Defendant Lee’s Response to</u></b>
2		<b><u>Plaintiffs’ Additional Material Facts:</u></b>
3	8, 9, 10, 11, 15 [Docket No. 309]	
4	(“Lunada Bay is a world class wave . . .“)	
5	and Ex. 4 (“Palos Verdes Estates	
6	Shoreline Preserve constitutes an asset of	
7	priceless value.” p. 87) (Palos Verdes	
8	“has a shoreline of exceptional and	
9	dramatic scenic beauty . . .”) (p. 115);	
10	Johnston Depo. 44:10-25. (“Q. If Ms.	
11	Lawry quoted you in an article as saying	
12	that a good day surfing with my friends	
13	is like 5 grand to me, do you have any	
14	reason to doubt that she accurately	
15	quoted you? A. I might have said that. I	
16	mean, now that I -- now that I’m	
17	thinking about it, it’s worth more than	
18	that, and it’s worth less than that. You	
19	can’t put a monetary value on surfing,	
20	you know. It cost money to travel and	
21	stay in hotels and surfboards cost money	
22	and stuff, but the feeling is -- you can’t	
23	equate like to anything financial. “); Lee	
24	Depo. 88:22-25, 89:(“[I] am not a rich	
25	person , all [I] have is my word , my	
26	good friends ( who back me up 110% n	
27	not 98 % ), [I] am not going to have a	



1	<b><u>Plaintiffs’ Additional Material Facts:</u></b>	<b><u>Defendant Lee’s Response to</u></b>
2		<b><u>Plaintiffs’ Additional Material Facts:</u></b>
3	mansion on the cliff or drive a \$ 100,000	
4	car but what [but what I] have is	
5	priceless ..... this place has given me	
6	soooooooooo much [I] cant even start.....”	
7	); Barber Depo. 112:18-22, Ex. 263	
8	(“Q: And I’m going to – 263 I’m going	
9	to put in front of you, Sergeant Barber.	
10	Do you recognize that as being a map of	
11	the general Lunada Bay coastal area?	
12	A: Yes.”).	
13	2. The State of California granted	2. Undisputed. However, this fact
14	Lunada Bay and the rest of the	is irrelevant to the claims against
15	Palos Verdes Estates Shoreline	Defendant Lee.
16	Preserve to the City, but it is	
17	reserved for the People of	
18	California.	
19	<b>Plaintiffs’ Evidence:</b>	
20	Willis Decl., ¶¶ 8-11[Docket No. 309].	
21		
22	<b>Issue #2: Plaintiffs Coastal Protection Rangers, Reed, and Spencer Have</b>	
23	<b>Standing to Obtain Relief Against The Individual Defendants</b>	
24	<b><u>Plaintiffs’ Additional Material Facts:</u></b>	<b><u>Defendant Lee’s Response to</u></b>
25		<b><u>Plaintiffs’ Additional Material Facts:</u></b>
26	3. Coastal Protection Rangers (CPR)	3. Undisputed. However, this fact
27	is a California non-profit public	is irrelevant to the claims against
28		



<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17</p>	<p>benefit corporation whose mission is dedicated to ensuring public access to the California coast.</p> <p><b>Plaintiffs’ Evidence:</b></p> <p>City Responses to Plaintiffs’ Separate Statement of Undisputed Facts ISO Class Certification No. 14 (“The Coastal Protection Rangers, Inc. is a nonprofit dedicated to ensuring beach access and environmental justice. CPR believes all visitors should be able to visit Lunada Bay without fear of attack or vandalism. Undisputed”) [Docket No. 189]; Slatten Decl. ISO Motion for Class Certification ¶ 2 [Docket No. 159-6]; Apostol Decl. ISO Opp. City MSJ, ¶¶ 2,3 [Docket No. 304].</p>	<p>Defendant Lee.</p>
<p>18 19 20 21 22 23 24</p>	<p>4. Non-profit coastal advocacy groups like CPR provide important support to the California Coastal Commission.</p> <p><b>Plaintiffs’ Evidence:</b></p> <p>Willis Decl. ISO Opp. City MSJ, ¶¶ 3, 4, 5, 6, 7, 11, 12 [Docket No. 309].</p>	<p>4. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.</p>
<p>25 26 27</p>	<p>5. To CPR, the beach represents freedom, a place to gather with friends, and a place for people to</p>	<p>5. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.</p>



1	express themselves.		
2	<b>Plaintiffs’ Evidence:</b>		
3	Slatten Decl. ISO Motion for Class		
4	Certification ¶ 4 [Docket No. 159-6].		
5	6. To CPR, the California coast is the	6. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.	
6	largest open space near urban		
7	areas that have too little access to		
8	recreation, parks, nature and the		
9	outdoors.		
10	<b>Plaintiffs’ Evidence:</b>		
11	Slatten Decl. ISO Motion for Class		
12	Certification ¶ 4 [Docket No. 159-6].		
13	7. Beach access is central to CPR’s		7. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.
14	mission.		
15	<b>Plaintiffs’ Evidence:</b>		
16	Slatten Decl. ISO Motion for Class		
17	Certification ¶ 8 [Docket No. 159-6];		
18	Apostol Decl. Opp. ISO City MSJ, ¶¶ 2,		
19	3, 4, 8, 9, 10, 11,14,16 [Docket No. 304].		
20	8. CPR board members, members,	8. Plaintiffs evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.	
21	and/or volunteers have suffered		
22	from unlawful exclusion by the		
23	City (and by the Bay Boys and its		
24	members, including the individual		
25	Defendants) at Lunada Bay,		
26	including exclusion based on		
27	where they live, race and gender.		



<p>1 2 3 4 5</p>	<p><b>Plaintiffs’ Evidence:</b> Slatten Decl. ISO Motion for Class Certification ¶ 7 [Docket No. 159-6]; Apostol Decl. Opp. ISO City MSJ, ¶¶ 4, 6, 9, 10, 12, 13, 14, 16 [Docket No. 304].</p>	
<p>6 7 8 9 10 11 12</p>	<p>9. CPR’s members, volunteers and the people it helps include people of color, people with disabilities, women, and people of different sexual orientations who are concerned about illegal exclusion from the coast.</p>	<p>9. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.</p>
<p>13 14 15 16</p>	<p><b>Plaintiffs’ Evidence:</b> Apostol Decl. Opp. ISO City MSJ, ¶¶ 3, 6, 8, 9, 10, 11, 12, 14, 16 [Docket No. 304].</p>	
<p>17 18 19 20 21 22 23 24 25 26 27</p>	<p>10. CPR has investigated illegal exclusion by the Bay Boys and the City, and on behalf of its members and volunteers wants to remedy unequal treatment against persons of color, women, the poor, and other protected categories – and on behalf of its members and volunteers specifically desires to address civil rights issues as they relate to beach access.</p>	<p>10. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.</p>

<p><b>1 Plaintiffs' Evidence:</b>  <b>2</b> Slatten Decl. ISO Motion for Class  <b>3</b> Certification ¶¶ 9,10, 11, 13 [Docket  <b>4</b> No. 159-6]; Apostol Decl. Opp. ISO City  <b>5</b> MSJ, ¶¶ 3, 5, 6, 7, 8, 10, 11, 12, 14  <b>6</b> [Docket No. 304].</p>	
<p><b>7</b> 11. CPR has diverted resources to  <b>8</b> achieve open access for all at  <b>9</b> Lunada Bay, and if it were not for  <b>10</b> the illegal exclusivity by the Bay  <b>11</b> Boys and City, these resources  <b>12</b> could be used for other important  <b>13</b> CPR projects related to coastal  <b>14</b> access.  <b>15 Plaintiffs' Evidence:</b>  <b>16</b> Apostol Decl. Opp. ISO City MSJ, ¶ 15  <b>17</b> [Docket No. 304].</p>	<p>11. Plaintiffs' evidence lacks support that Defendant Lee is a member of the Bay Boys. This fact is irrelevant to the claims against Defendant Lee.</p>
<p><b>18</b> 12. The Bay Boys, along with the  <b>19</b> City, are causing CPR's members  <b>20</b> and volunteers irreparable harm.  <b>21 Plaintiffs' Evidence:</b>  <b>22</b> Willis Decl. ISO Opp. to City MSJ, ¶ 4  <b>23</b> [Docket No. 309] ("Without judicial  <b>24</b> assistance, I am of the opinion that the  <b>25</b> potential remains that beachgoers are  <b>26</b> being denied access to Lunada Bay in  <b>27</b> violation of the law, and, thus, are</p>	<p>12. Plaintiffs evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.</p>





1 continuing to suffer irreparable harm.”).

2 13. Diana Reed is a female outsider  
3 who has been harassed at Lunada  
4 Bay by the Bay Boys, and is  
5 deterred from visiting Lunada  
6 Bay.

7 **Plaintiffs’ Evidence:**

8 Reed Decl. ISO Motion for Class  
9 Certification ¶¶ 1, 5-11, 17-28 [Docket  
10 No. 159-5]; Franklin Decl., ¶ 25, Ex. 17  
11 [Docket No. 324] (“fucking sexy  
12 baby...want to film it?”; “I seen you and  
13 I think I touched myself a little bit”; “I  
14 can do whatever I want.”); Reed Depo.  
15 (Vol. II) 204:15-20 (“I witnessed Mr.  
16 Johnston moaning towards her,  
17 oscillating his body in a sexual manner,  
18 you know, other things, but it’s hard for  
19 me to remember because I was mostly  
20 focused on what was happening to me  
21 and I was so scared that I, you know, I  
22 wasn’t thinking very clearly.”); Reed  
23 Depo. (Vol. II) 207: 1:5 (“I think that I  
24 wanted an escort at the time because of  
25 the previous incident in January where I  
26 was yelled at by the other individual  
27 [David Melo]. Q: Okay. What did you

13. Plaintiffs evidence lacks  
support that Defendant Lee is a  
member of the Bay Boys.  
Therefore, this fact is irrelevant to  
the claims against Defendant Lee.

1 want the escort for? A: For safety.”);  
2 Reed Depo. (Vol. II) 207:21-23  
3 (“Q: Did you want the escort to go to  
4 the fort with you? A: I did want them to  
5 escort me there.”); Reed Depo.  
6 (Vol. II) 208: 9-13 (“I just remember --  
7 yeah, I just remember speaking to the  
8 police and requesting someone to escort  
9 me. I remember, you know, the idea of  
10 doing that, but it’s hard for me to  
11 remember, you know, anything that was  
12 said specifically.”); Reed Depo. (Vol. II)  
13 211:18-20 (“Did they tell you they  
14 weren’t available or did they refuse your  
15 request? A: Is there a difference  
16 between that?”); Reed Depo. (Vol. II)  
17 300:15-25, 301:1-25, 302:1-7 (“Q: Did  
18 you ever see Brant Blakeman do  
19 anything besides filming or speaking to  
20 you as you told us at the bay area?  
21 A: Well, during the incident that  
22 occurred on February 13th, it appeared  
23 as though he had orchestrated that event  
24 with Mr. Jalian Johnston. Q: What  
25 specifically did he do that made you  
26 think that he had orchestrated that?  
27 A: It appeared as though they had

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1 planned the event out in an attempt to try  
2 to ruin my camera and in an attempt to  
3 try to intimidate me. Q: What  
4 specifically was done or did you see that  
5 caused you to believe that? A: The fact  
6 that when they entered the fort it seemed  
7 like all of their actions were orchestrated,  
8 they immediately rushed towards me.  
9 Johnston immediately opened the can of  
10 beer and, you know, sprayed it on me  
11 and on my camera in what I believe they  
12 intended to appear as an accident but to  
13 me it felt very intentional. The way that,  
14 you know, he was -- he was filming  
15 Johnston as though it was like a planned  
16 performance it seemed like, you know.  
17 The fact that he was holding the camera  
18 just right, right next to my face in a way  
19 that made me feel threatened or  
20 intimidated. Q: Go ahead. A: A lot of  
21 the actions at Lunada Bay between the  
22 locals all appeared to be orchestrated  
23 based on what I've seen and what I've  
24 heard in the surf community. Q: Can  
25 you give me any specifics as to why you  
26 thought the February 13th episode was  
27 orchestrated or scripted or somehow

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1 created by Mr. Blakeman or with his  
2 direction? A: I don't know who planned  
3 it. I don't know who planned it but it  
4 appeared that they were following a very  
5 distinct plan to try to intimidate me and  
6 try to ruin my camera. Q: Can you give  
7 me any specifics as to why you think  
8 that? A: I think that because of the way  
9 that that the actions unfolded that I just  
10 described."); Reed Depo. (Vol. II)  
11 305:12-24 ("Q: Was Mr. Blakeman  
12 doing anything as he entered? A: Yes,  
13 as I was saying, he was holding the  
14 camera on some kind of tripod device  
15 recording, very menacing, threatening  
16 look on his face that made me extremely  
17 fearful. Mr. Johnston was -- also had a  
18 very menacing and fearful expression.  
19 The way that they walked and their body  
20 language also appeared threatening.  
21 They were making big, loud steps and  
22 just a lot of heavy, you know, frightening  
23 movements that made me feel that they  
24 were there in an aggressive and hostile  
25 way."); Reed Depo. (Vol. II) 307:14-25  
26 ("Yes, Mr. Johnston appeared to be  
27 forging a celebration, and, you know, he

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1 was raising his voice and saying woo-  
2 hoo, you know, L.A. Times, and he was -  
3 - as I can assume now, attempting to  
4 celebrate the fact that the L.A. Times had  
5 published an article about Lunada Bay  
6 and it was on the front page that day.  
7 And I was unaware of that fact at the  
8 time. Q: When you say “forging a  
9 celebration,” what do you mean?  
10 A: What I mean is that they were  
11 obviously there to intimidate and harass  
12 me, and the way that they wanted to do  
13 it, I guess, was to pretend that they were  
14 celebrating the fact that the article came  
15 out but clearly they were upset about the  
16 article.”); Reed Depo. (Vol. II) 308: 1-7  
17 (“When you say “rushing towards me,”  
18 what do you mean? A: By that, I mean I  
19 remember him walking, you know,  
20 moving towards me quickly, I wouldn’t  
21 say walking, but moving towards me in  
22 an extremely quick and frightening way  
23 to where he was in my personal space,  
24 very close.”); Reed Depo. (Vol. II) 319:  
25 17-25, 320:1-11 (“Q: I wasn’t there so I  
26 don’t know what to ask you except to  
27 ask you to tell me what other things you

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1 can recall about the episode on the 13th  
2 specifically with regard to Mr. Blakeman  
3 that you haven't told me about already.  
4 You told me that he had a camera, that  
5 he took videos, that he looked menacing  
6 to you, that he videotaped or whatever?  
7 A: Yeah, I remember that he wouldn't  
8 stop videotaping me. I think I might  
9 have asked him to stop -- I mean, I  
10 definitely asked him why they're doing  
11 that. I feel like his role was to record  
12 rather than to speak and to intimidate  
13 through his camera. So I remember him,  
14 like I said, getting very close to me and  
15 being -- felt like he was right in my face  
16 with the camera. I remember asking  
17 them why they're filming me and they  
18 said they're filming me because I'm sexy  
19 and because I turn them on and that was  
20 what Mr. Johnston was saying."); Reed  
21 Depo. (Vol. II) 321: 13-23 ("Q: What is  
22 a menacing expression to you, what does  
23 that mean? A: I mean, he looked like -- I  
24 mean, he was -- obviously, he was  
25 scowling, he was -- his body language  
26 conveyed that he was hostile, he -- I  
27 mean, they were making -- he was

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1 making sexual comments, Mr. Johnston  
2 was. And I just felt very frightened like  
3 anything could happen, you know.”);  
4 Reed Depo. (Vol. II) 276:13-25, 277:1-3  
5 (“Q: Now, the pain and suffering that  
6 you attribute, how have you experienced  
7 pain and suffering? Describe your  
8 symptoms with the pain and suffering  
9 you suffered? A: I’ve had loss of  
10 sleep -- you mean the entire -- the entire  
11 course of events that happened to me at  
12 the fort was extremely traumatic, you  
13 know, I felt -- felt like I could have even  
14 been raped. I mean, it was incredibly  
15 frightening, I felt helpless. Just that  
16 whole memory of the event has caused  
17 me to be fearful and just really affected  
18 my piece of mind. Q: Did it cause you  
19 to be fearful of going to Lunada Bay  
20 after February 13th? A: Of course.  
21 Yeah, it caused that as well, hmm-mm.  
22 Q: Okay. And you did go to Lunada  
23 Bay after that, February 13th; right?  
24 A: I did go back. And the reason why is  
25 because I don’t believe in bullying. I  
26 will stand up to bullies. I will do what’s  
27 right, it’s a public beach, and if I don’t

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1 go then who else will go. And, you  
2 know, I just, you know, I don't believe in  
3 them bullying me into being fearful of  
4 going somewhere that's beautiful and  
5 should be accessible to all people.");  
6 Reed Depo. (Vol. I), 170:9-25  
7 ("Q: What do you remember about  
8 being approached by individual  
9 defendants with a case of beer? A: I  
10 remember that they approached me very  
11 rapidly and I was caught by surprise. I  
12 remember that they rushed towards me  
13 in a hostile manner. I remember, you  
14 know, declining that I wanted to drink  
15 beer. I remember being videotaped by  
16 Brant Blakeman. I remember there were  
17 times when I was being videotaped very  
18 close to my face and it felt very  
19 intimidating and definitely felt like I was  
20 being harassed. And I think that I asked  
21 them, you know, why they're  
22 videotaping me because it made me very  
23 uncomfortable. I remember Mr.  
24 Johnston opening the can of beer in a  
25 way that sprayed my arm and my  
26 camera. I remember him chucking beer  
27 and throwing beer cans on the floor. I

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1 remember him being very loud and very  
2 scary, very intimidating, and acting in a  
3 sexual manner.”); Reed Depo. (Vol. I)  
4 175:8-14 (“Q: Do you recall trying to  
5 leave the fort and being unable to do so  
6 because you were blocked?  
7 MR. FRANKLIN: Vague and  
8 ambiguous. A: I recall them standing in  
9 front of me, and the way to leave would  
10 be to go, you know, to get close to them.  
11 And I do recall attempting to call the  
12 police but not having cell phone  
13 service.”); Johnston Depo. 148:19-21  
14 (admitting he said he touched himself  
15 and that he drank three beers during his  
16 interaction with Reed); Frank Ferrara  
17 Depo. 208:6-9 (questioning why an  
18 outsider woman would be at Lunada  
19 Bay) (“And I know that Diana talked  
20 about she wants to be an accomplished  
21 big wave surfer. And she has got her  
22 makeup and she’s looking like she’s  
23 ready to go out on a date and she’s on  
24 the patio.”); Mowat Depo. 190:12-14  
25 (stating in reference to Reed, “I could  
26 tell people’s body language and the way  
27 people are and she just looked like a

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<p>1 2 3 4 5 6 7 8 9 10 11</p>	<p>bitch to me and a liar.”); Blakeman Mot. Summ. J. at 4:17-18 [Docket No. 284] (trivializing Plaintiff Reed’s assault and victim-blaming her, stating: “Reed can be seen throughout the video smiling, smirking, and in no apparent distress.”); Blakeman Depo. 196:24-197:10 (Blakeman acknowledging the men’s locker-room atmosphere at Lunada Bay and authenticating a photo of him changing at the shoreline), Ex. 178.</p>	
<p>12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p>14. After being first harassed, on February 13, 2016, Reed returned to Lunada Bay and asked the police for an escort from the bluffs to the beach but was told no officers were available.</p> <p><b>Plaintiffs’ Evidence:</b></p> <p>Reed Decl. ISO Motion for Class Certification ¶18 [Docket No. 159-5]; see Plaintiffs Additional Material Facts Opposition to City Defendants Motion for Summary Judgment [Docket No. 323] No. 119.</p>	<p>14. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.</p>
<p>25 26 27</p>	<p>15. On February 13, 2016, the day Reed is harassed a second time, (i) the City had cancelled a</p>	<p>15. Plaintiffs evidence lacks support that Defendant Lee is a member of the Bay Boys.</p>



<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>planned undercover operation at Lunada Bay because it was “leaked” to the Bay Boys the day before, (ii) Reed was sexually harassed by Bay Boys Alan Johnston and Brant Blakeman, and (iii) the day before Bay Boy Michael Thiel directs the City Manager to not hold an undercover operation.</p> <p><b>Plaintiffs’ Evidence:</b>          Reed Decl. ISO Motion for Class Certification ¶¶18-27 [Docket No. 159-5]; Best Depo. 169:16-25, 170:1-10, 20-25, 171:1-4, 172:9-25, 173:1-25, 174:1-5; Kepley Depo. 184:7-25, 185:1-16; Franklin Decl., ¶25 Ex. 17 [Docket No. 324] (“fucking sexy baby...want to film it?”; “I seen you and I think I touched myself a little bit”; “I can do whatever I want.” <i>See also</i> Plaintiffs’ Additional Material Facts Opposition to City Defendant’s Motion for Summary Judgment [Docket No. 323] Nos. 119 and 185.</p>	<p>Therefore, this fact is irrelevant to the claims against Defendant Lee.</p>
<p>26 27</p>	<p>16. Unbeknownst to Reed at the time, the individual defendants and the</p>	<p>16. Plaintiffs’ evidence lacks support that Defendant Lee</p>

<p>1 rest of the Bay Boys had conspired                  2 to assault outsiders like Reed on                  3 February 13, 2016 to deter her and                  4 others from returning to Lunada                  5 Bay.                  6 <b>Plaintiffs’ Evidence:</b>                  7 See PAMF 24 to 63.</p>	<p>conspired with the Bay Boys. This                  fact is irrelevant to the claims                  against Lee. (Lutz Decl. ¶4, Reed                  depo, p. 366:23-25; p.367:1-18).</p>
<p>8 17. In response to her desire to return,                  9 the City told her to carry a cell                  10 phone and travel in a large group.                  11 The Chief of Police told her it was                  12 not safe to go to Lunada Bay, that                  13 he wouldn’t even tell a man to go                  14 down there, and that he viewed it                  15 as a long term problem.                  16 <b>Plaintiffs’ Evidence:</b>                  17 Reed Decl. ISO Motion for Class                  18 Certification ¶31. [Docket No. 159-5]</p>	<p>17. This fact is irrelevant to the                  claims against Defendant Lee.</p>
<p>19 18. Reed suffers irreparable harm:                  20 As an outsider, she is denied                  21 access to a public area granted to                  22 the City from the State.                  23 <b>Plaintiffs’ Evidence:</b>                  24 Reed Decl. ISO Motion for Class                  25 Certification ¶¶ 9, 11, 12, 14, 15, 18, 19,                  26 20, 21, 22, 24, 27, 30, 31, 40, 41 [Docket                  27 No. 159-5]; Willis Decl. ISO Opp. to</p>	<p>18. This fact is irrelevant to the                  claims against Defendant Lee.</p>



1	City MSJ ¶¶ 3, 4 [Docket No. 309].	
2 3 4 5 6 7 8 9 10	<p>19. Cory Spencer is an outsider who lives in the inland community of Norco, California more than 60 miles from Palos Verdes Estates. Like Reed, he has been harassed by outsiders with City complicity. He grew up in La Mirada, more than 30 miles Palos Verdes Estates.</p>	<p>19. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.</p>
11 12 13	<p><b>Plaintiffs’ Evidence:</b> Spencer Decl. ISO Motion for Class Certification ¶¶1, 2. [Docket No. 159-4]</p>	
14 15 16 17 18 19 20	<p>20. Because of its reputation for localism, Spencer is afraid to surf Lunada Bay.</p> <p><b>Plaintiffs’ Evidence:</b> C. Spencer Decl. ISO Motion for Class Certification ¶¶3, 4, 5. [Docket No. 159-4]</p>	<p>20. Undisputed, however this fact is irrelevant to the claims against Defendant Lee.</p>
21 22 23 24 25 26 27	<p>21. Supported by other outsiders, Spencer decided to address his fear and attempt to surf Lunada Bay in 2016.</p> <p><b>Plaintiffs’ Evidence:</b> C. Spencer Decl. ISO Motion for Class Certification ¶¶8, 9, 10. [Docket</p>	<p>21. Undisputed, however this fact is irrelevant to the claims against Defendant Lee.</p>

1	No. 159-4]	
2	22. Upon arrival at Lunada Bay,	22. Plaintiffs evidence lacks
3	Spencer was intimidated and	support that Defendant Lee is a
4	harassed as an outsider on land,	member of the Bay Boys.
5	blocked from surfing (in water	Therefore, this fact is irrelevant to
6	granted to the City from the State)	the claims against Defendant Lee.
7	and run over in the water – all of	
8	this was planned and coordinated	
9	by the Bay Boys. <i>See</i> PAMF 24	
10	to 63. Even though Spencer had	
11	given the City advance notice that	
12	he and other outsiders would be	
13	coming to use Lunada Bay, the	
14	City failed to arrive as requested	
15	and failed to patrol the shoreline	
16	near the water. Moreover, even	
17	though he had been purposefully	
18	run over by a local and attempted	
19	to tell a City policeman, the City	
20	showed no interest in an	
21	investigation of a crime against an	
22	outsider, even though Spencer	
23	himself is a police officer but from	
24	another jurisdiction.	
25	<b>Plaintiffs’ Evidence:</b>	
26	C. Spencer Decl. ISO Motion for Class	
27	Certification ¶¶11-31 [Docket No. 159-	

1 4]; Wolff Decl., ¶ 35 & Ex 34; Spencer  
2 Depo. 39:1-18 (“A: Let me just say this.  
3 Around 2002 or 2003, somewhere in the  
4 early 2000s, I was almost ecstatic when  
5 my police chief was looking for  
6 volunteers of officers to go surf at  
7 Lunada Bay to take care of a problem  
8 that supposedly either the police chief or  
9 the city at the time wanted to take care  
10 of, and I was going to go in the capacity  
11 of a police officer; be able to undercover  
12 surf in a place that I wanted to surf since  
13 I was probably 15 years old and take  
14 care of a bullying problem. I thought at  
15 that time, hey, these guys are going to do  
16 it. You know, this is -- this is going to  
17 happen, and I’m going to be a part of it.  
18 And that was -- that was exciting to me.  
19 Yeah, I was excited. I thought at that  
20 time it was going to be taken care of.  
21 But, for whatever reason, that  
22 undercover operation, or whatever they  
23 were planning on doing with us, was  
24 called off; and, again, nothing happened.  
25 That was a letdown.”); Spencer Depo.  
26 44:4-16 (“Q: And ‘cause I don’t know.  
27 I don’t understand undercover

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1 operations. A: Well, I think the  
2 expectation speaks for itself on the  
3 undercover operation. You go in  
4 undercover expecting that things that  
5 have been reported for the last 30 or 40  
6 years would happen to you as an  
7 undiscovered outsider; and you, being an  
8 on-duty police officer, would be able to  
9 make and effect a proper arrest or a  
10 citation and send a message that -- when  
11 I say, 'we,' meaning 'we' as the Palos  
12 Verdes Estates police are not going to  
13 tolerate a gang in the water and on the  
14 beach, and the problem would go away.  
15 Almost instantaneously within a couple  
16 weeks this could be cleared up. We  
17 would not be sitting here today.”);  
18 Spencer Depo. 56:5-14 (“A: Let’s go  
19 back to that. When you see -- you  
20 question why you can’t go there; and,  
21 then, you start inquiring in the surfing  
22 world why you can’t go there, and you  
23 hear the stories that have gone on for as  
24 long as they have up into that point. You  
25 immediately get fearful. You don’t want  
26 to go somewhere where you’re going to  
27 get your tires slashed; your windows



1 egged; your property thrown in the  
2 ocean. Those were the stories that you  
3 get; so, you become fearful right away,  
4 right? Or I did.”); Spencer Depo. 59:18-  
5 21 (“Fearful? Just going there I was in  
6 fear. Just driving up the Palos Verdes  
7 Peninsula road, you know, or whatever  
8 road it is to get up there, you’re a little  
9 afraid because you’ve heard stories.”);  
10 Spencer Depo. 60:2-8 (“I don’t know  
11 how to answer that any other way than I  
12 already did. When you drive up, you --  
13 because of the lure, the stories, you feel  
14 fearful of, hey, is this real? Is this -- is  
15 this place really like they say it is? Am I  
16 going to get my property vandalized?  
17 Am I going to get, you know, in some  
18 type of confrontation? That’s a fear.”);  
19 Spencer Depo. 103:11-25 (“Q: Did these  
20 statements cause fear for you? A: Yeah.  
21 Q: Okay. A: Yes. Sorry. Q: Did  
22 anything else occur in the 20 minutes  
23 that caused fear for you? A: Yes.  
24 Q: What was that? A: More -- more of  
25 the same statements by a specific  
26 individual, who I could identify. I don’t  
27 know his name. Same things. It was

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1 more of a – more of a closer, I guess,  
2 encounter with the same language all the  
3 way down the trail; jumping into the  
4 water; same individual just keep, you  
5 know, heckling.”); Spencer  
6 Depo. 105:12-21 (“A: A very  
7 uncomfortable feeling when the -- who I  
8 now know -- did not know at the time --  
9 was Defendant Blakeman paddling  
10 around myself and Chris and, more  
11 specifically, Chris in a very tight circle;  
12 blocking Chris from getting any waves;  
13 never saying a word; just looking --  
14 staring at both he and I. That was a little  
15 weird; fearful. I’ve never experienced  
16 that before in my life in the water like --  
17 kind of like a circling you like a shark.  
18 You know, it was weird -- just weird.”);  
19 Spencer Depo. 106:20-25, 107:1-9  
20 (“Q: Once in the water, on his second  
21 wave at Lunada Bay, a member of  
22 Defendant LUNADA BAY BOYS  
23 intentionally ran Spencer over with his  
24 surfboard and sliced open Spencer’s  
25 hand.” Is that true? A: Yes. Q: All  
26 right. Which hand was that? A: The  
27 right wrist. Q: Okay. A: With about a

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1 half-inch scar. Q: Do you mind  
2 showing it to me? A: Right there.”);  
3 Spencer Depo. 108:4-17 (“Q: Well,  
4 that’s a bad question. How do you know  
5 that the person who ran you over with  
6 the surfboard intentionally did that?  
7 A: I’m not in his brain; but I have surfed  
8 for, you know, 30 years, and you can tell  
9 when somebody locks eyes with you and  
10 is on one path, and they specifically  
11 move their board and maneuver their  
12 body to make their board go in another  
13 path that’s directly at you when they  
14 could go the more safer, more better part  
15 of the wave being closer to the more  
16 critical part of the wave, which is more  
17 enjoyable to surf than aiming towards  
18 somebody paddling out to get back out to  
19 the lineup. In my mind, I determined  
20 that, hey, this guy tried to run me  
21 over.”); Spencer Depo. 109:17-22  
22 (“A: With that individual who ran -- just  
23 ran me over; start berating me with  
24 comments of, you know, ‘What are you’  
25 – ‘What are you fucking doing out here?’  
26 I told you to go home. I should have ran  
27 you over. Why are you paddling in the

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1 sun glare where I can't see you?" And  
2 that's it. 'I should have ran you over.'");  
3 Spencer Depo. 110:12-25, 111:1-4, 9-25,  
4 112:1 ("Q: Did you say anything to the  
5 person whose surfboard cut your hand?  
6 A: After he made the comment that, 'I  
7 should have ran you over,' I says, 'Well,  
8 you did,' and I held up my hand and  
9 showed him, and that's when he said,  
10 you know, 'Why are you paddling where  
11 I can't see you? You shouldn't paddle in  
12 the sunlight,' stuff like that. Then I kept  
13 paddling off. Q: Were you fearful of  
14 being further injured after that point?  
15 A: That's an understatement. Q: So is  
16 the answer yes? A: Yes. Q: Okay. Did  
17 you feel that what had occurred to you  
18 getting your hand cut and the way it  
19 happened was a crime? A: I know it  
20 was a crime.... A: The way his  
21 explanation was going down the road of,  
22 basically, avoiding taking any  
23 responsibility for his actions; blaming it  
24 on the sun; blaming, you know, me  
25 paddling where I'm not supposed to be  
26 paddling -- I was paddling exactly where  
27 you're supposed to paddle to avoid

1 injury; to avoid conflict with any other  
2 surfers. I was paddling back to the  
3 channel, which basically gets away from  
4 the critical part of the wave, which is  
5 where he should have been surfing when  
6 he redirected his path to run me over.  
7 You know, in my opinion, yeah, it was a  
8 crime. Did I report it? It's going to be  
9 with no witnesses there; no police  
10 officers in the water, as there could have  
11 been; no police officers down on the  
12 beach, as there could have been; on the  
13 fort, as there could have been; nothing to  
14 corroborate my story, it would have been  
15 a 'He said ...'; 'He said ...' go nowhere  
16 thing."); Spencer Depo. 112:25, 113:1-  
17 25, 114:1 ("Q: Did you, at that point,  
18 have any fear that the same thing would  
19 happen to your friend, Chris?  
20 A: Yeah -- yes. Q: Okay. A: It came  
21 alive. All those stories of 30 or 40 years  
22 just happened. Q: And given that you  
23 had that fear, did you consider that in  
24 order to avoid it potentially happening to  
25 Chris, that, perhaps, you should take  
26 some actions as a police officer -- and I  
27 think you said that you felt it was a crime

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1 -- to prevent that from happening to  
2 Chris? [OBJECTION] A: I felt the best  
3 plan of action was to stay clear of these  
4 guys, especially since they just assaulted  
5 us. I've got no radio. I've got no  
6 handcuffs. I've got no gun; no bullet-  
7 proof vest. I'm not a police officer out  
8 there. I'm a citizen; okay? And the best  
9 plan of action was to avoid them; and  
10 that was almost, I mean, impossible,  
11 when you got a guy circling around  
12 you -- not the guy that ran me over but  
13 they're all -- they all know each other,  
14 and here's the guy that just injured me.  
15 He knows his buddy is circling my  
16 friend; and, so, it's like let's get out of  
17 here; so we caught one more wave after  
18 that; and, then, we decided that was --  
19 it's getting too crazy out here, and more  
20 and more [Bay Boys] started showing up  
21 on the fort."); Spencer Depo. 149:7-23  
22 ("We discussed Mr. Blakeman's actions.  
23 Other than Mr. Blakeman's actions, did  
24 you witness any other incidents of the  
25 Lunada Bay Boys threatening or taunting  
26 surfers that day in February 2016?  
27 MR. FRANKLIN: Asked and answered.

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1 THE WITNESS: Well, I mean, how do I  
2 know who's doing the taunting and  
3 threatening when it could be all of them,  
4 when they're on their phones, and more  
5 and more groups, you know, show up to  
6 kind of put this stranglehold on the area,  
7 in my opinion? That's taunting and  
8 threatening in itself when you have a  
9 little goat trail one way to go down there,  
10 and you've got two groups of 15 to 20 on  
11 each end, and you got a guy going  
12 around with a selfie stick and a camera,  
13 people -- people yelling at you to fucking  
14 get out of there; 'Why are you here? Go  
15 home. Don't surf here.' I don't know  
16 who they are specifically."); Spencer  
17 Depo. 125:10-25, 126:1-25, 127:1  
18 ("Q: Yes, or anything that happened to  
19 you that day? A: I did not request a  
20 formal police report, no. I did not.  
21 Q: Okay. Did you communicate to  
22 anybody at the City of Palos Verdes  
23 Estates Police Department with regard to  
24 what occurred to you that day at Lunada  
25 Bay? [OBJECTION] A: Yes.  
26 Q: Okay. When was that? A: So,  
27 shortly after getting changed, I noticed

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1 the group of police officers standing to  
2 my south talking with what appeared to  
3 be another group of newly-formed Bay  
4 Boys. So, the bay is a bay. There's a  
5 north and a south end. The south group  
6 had, you know, trucks and cars and guys  
7 standing kind of huddled around in a  
8 group of guys, and the police officers  
9 were kind of towards the south. They  
10 weren't right up next to the group. And I  
11 did notice that a couple of police officers  
12 appeared to be talking with a few  
13 members of the group; and, so, I made a  
14 point, because there was, in my  
15 opinion -- and I don't know if it was  
16 directed by my contacts with the captain  
17 or whatnot, but I noticed the group of  
18 police officers; so, I personally wanted to  
19 go over and tell them, you know, 'Hey,  
20 thanks for showing up,' you know. 'We  
21 appreciate it.' You know, and the one  
22 younger officer -- I don't know his  
23 name. I didn't get any of their names. I,  
24 basically, you know, told him what  
25 happened to me down there, you know;  
26 showed him my hand and -- and I told  
27 him, I says, you know, 'The guy is

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1 going to claim sun glare and whatnot.' I  
2 just didn't want to -- I knew where it was  
3 going to go. 'He said ...'"; 'He said ...';  
4 and, no, he [the officer] didn't offer to  
5 take a report. You know, he didn't ask  
6 me to point anybody out. I know you're  
7 going to ask all these questions; so, we'll  
8 just cut to the chase. Q: He did not offer  
9 to take a report? A: Right."); Spencer  
10 Depo. 187:22-25, 188:1-9, 188:22-23  
11 ("Q: With regard to the pain and  
12 suffering that you allege, can you  
13 describe how you have suffered that pain  
14 and suffering? A: Yeah, it's kind of a  
15 letdown. You just feel sad that, you  
16 know, things that maybe you'd hoped as  
17 a human that really weren't happening  
18 down there, actually, when they did  
19 happen to you, kind of -- don't know. I  
20 don't want to say a depression 'cause --  
21 but just a sadness, you know, that, hey, it  
22 actually happened; and kind of suffered,  
23 in the sense of, you know, it just kind of  
24 a -- it's kind of a bummer that it  
25 happened. You know, I'm -- in my  
26 sense, I'm suffering that I'm not able to  
27 go enjoy a place that I have a God-given

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1 right to go enjoy without being run over;  
2 called names; told to leave; so, in that  
3 sense, yeah, that's a suffering to me, I  
4 mean..... Q: Did you experience any  
5 loss of sleep? A: Yes."); Spencer Depo.  
6 193:10-25 ("Q: Do you attribute any of  
7 those specifically to the actions of Chief  
8 Kepley? A: Yes. I'm disappointed in  
9 him. I'm disappointed that him and his  
10 department are not taking care of the  
11 problem, yes. Q: And you're  
12 disappointed because Chief Kepley has  
13 not eliminated the problem, or do you  
14 mean something else by taking care of  
15 it? A: Yes, eliminated the problem.  
16 Q: All right. You would agree that extra  
17 patrols were provided in January and in  
18 February of 2016 when you asked for  
19 them; right? A: Wholeheartedly agree.  
20 MR. FRANKLIN: Vague and  
21 ambiguous; calls for speculation; move  
22 to strike. 196:2-19Q: Okay. Go ahead.  
23 And what are those? A. They haven't --  
24 here's the deal. They haven't provided  
25 access to an area that is popular for a  
26 recreational sport for the public to enjoy.  
27 They haven't provided any signage;

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1 notifications on what to do if there's any  
 2 type of problems. There's nothing down  
 3 there except a set of rocks that divide the  
 4 asphalt from the dirt. They're very  
 5 ineffective in providing access down  
 6 there, signage, which, in turn, would  
 7 automatically make it easy to patrol and  
 8 enforce laws and things that go on down  
 9 there. And let me just say they had an  
 10 opportunity to go through the permitting  
 11 process. They've chose to tear down the  
 12 fort when they could have permitted it.  
 13 Whatever they want to do, but just make  
 14 it accessible to any human being that  
 15 wants to go enjoy it; not let it be  
 16 controlled by a bunch of pack animals  
 17 that are acting like bullies. It's crazy.");  
 18 Spencer Depo. 274:3-10 ("Q: What is it  
 19 about right now that you don't feel  
 20 comfortable about? A: I don't feel the  
 21 problem has been addressed by the  
 22 police; by the city. I believe that there's  
 23 still Bay Boy members that are going to  
 24 be there, and I don't want to get into any  
 25 type of confrontation.").

26 23. Given the long-established  
 27 custom and practice of

23. Undisputed. However, this fact  
 is irrelevant to the claims against

1	discrimination by the City against	Defendant Lee.
2	outsiders, Spencer is afraid to	
3	return to Lunada Bay to recreate in	
4	a public area.	
5	<b>Plaintiffs’ Evidence:</b>	
6	Spencer Decl. ISO Motion for Class	
7	Certification ¶¶ 4, 5, 26 [Docket	
8	No. 159-4]; A. Willis Decl. ISO Opp. to	
9	City MSJ, ¶¶ 5, 12 [Docket No. 304];	
10	Plaintiffs’ Additional Material Facts	
11	Opposition to City Defendant’s Motion	
12	for Summary Judgment [Docket No.	
13	323] Nos. 129, 130.	

**Issue #3: The Individual Defendants Are Engaged in a Conspiracy to Exclude Outsiders From Lunada Bay**

17	<b><u>Plaintiffs’ Additional Material Facts:</u></b>	<b><u>Defendant Lee’s Response to</u></b>
18		<b><u>Plaintiffs’ Additional Material Facts:</u></b>
19	24. The individual defendants are	24. Plaintiffs’ evidence lacks support
20	members of a group known as the	that Defendant Lee is a member of the
21	“Bay Boys,” who bully, threaten,	Bay Boys. Therefore, this fact is
22	intimidate, and harass “outsiders”	irrelevant to the claims against
23	to keep them away from Lunada	Defendant Lee.
24	Bay. Beyond camaraderie -- and a	
25	chance to enjoy a world class	
26	beach and wave with few others --	
27	the group provides its members an	



1 avenue for status, prestige, and  
2 respect. Their main objective is to  
3 maintain a takeover of a public  
4 beach for private use, preserving it  
5 for themselves and their children.

6 **Plaintiffs’ Evidence:**

7 Franklin Decl. Supp. Pls.’ Opp to City  
8 Defendants’ MSJ. (“Franklin Decl.”),  
9 Ex. 21, Bates CITY7090 (“Chief Kepley  
10 told me that shortly after he was hired as  
11 chief of police he learned of a long  
12 history of alleged ‘bullying and hazing’  
13 of out-of-town surfers at Lunada Bay by  
14 local surfers, often referred to as the  
15 ‘Bay Boys.’”); See Plaintiff’s Additional  
16 Material Facts Opposition to City  
17 Defendants Motion for Summary  
18 Judgment [Docket No. 323] Nos. 163,  
19 164, 166-168, 171, 172; RJN, Ex. A.

20 25. The Bay Boys stick together, and  
21 refer to themselves as a  
22 “fraternity,” a “brotherhood,” and  
23 “family.” Their illegal purpose  
24 includes the objective to deter  
25 outsiders from using the coastal  
26 area and submerged tidelands so  
27 that they can have it for

25. Plaintiffs’ evidence lacks support  
that Defendant Lee is a member of the  
Bay Boys. Therefore, this fact is  
irrelevant to the claims against  
Defendant Lee.

1 themselves.

2 **Plaintiffs' Evidence:**

3 1. Lee Dep., 88:18 to 93:7, Ex. 222 ("Q.

4 Mr. Lee, you've been handed what has

5 been marked as Exhibit 222 which is a

6 three-page bates document, bates number

7 Lee 00001 through 00003. (Deposition

8 Exhibit 222 was marked for

9 identification and is attached hereto.) Q.

10 Have you ever seen Exhibit 222 before?

11 A. Have I seen this? Q. Yes. A. Yes.

12 Q. And Exhibit 222 contains E-Mails

13 that you sent on January 7th and 8th of

14 2011? A. What now? Q. Excuse me. A.

15 What now? Q. Does Exhibit 222 contain

16 E-Mails that you sent on January 7th

17 and 8th of 2011? A. It just says, yeah,

18 7th and 8th, yeah. Q. Yes? A. Yes. Q.

19 And the E-Mail that's dated January 7,

20 2011, it begins on the bottom of the

21 second page, yeah, the second page? A.

22 Uh-huh. Q. Can you identify who you

23 sent that E-Mail to? A. That's Brad

24 Ringer, I believe that one might be

25 Charlie Beukema. Q. The Roxy Quinn is

26 Brad? A. Excuse me? Q. You're saying

27 the Roxy -- A. Roxy Quinn, yeah. Q.

1 That's who? A. I think that's Charlie  
2 Beukema. Q. And who's next? A.  
3 Colm. Q. Collin? A. Colm, C-o-l-m. Q.  
4 Oh, before that isn't there one? A.  
5 Charlie Mowatt. Q. Charlie Mowatt, and  
6 then Colm, and who is that? A. Just  
7 another guy that surfs there. Q. What's  
8 his last name? A. I believe it's  
9 Gallagher. Q. Is his first name C-o-l-m?  
10 A. Yes. Q. Colm Gallagher, okay, who  
11 else? A. I think that next one was David  
12 Camplin. Q. Okay, and L.B. Control  
13 Agency? A. Yeah, he just makes it. Q.  
14 That's David? A. Yeah. Q. And who's  
15 next? A. Dave Mello. Q. Okay. Who's  
16 next? A. David Millcreek. Q. Okay.  
17 Who's next? A. Derek Debraal. Q.  
18 Who's next? A. Eric Binz. Q. All right.  
19 Who's next? A. Geoff Dsena. Q. Okay.  
20 Who's next? A. Greg Jehelkas. Q.  
21 Who's next? A. Jay Duston. Q. Who's  
22 next? A. Joe Bark. Q. Who's next? A.  
23 John Camplin. Q. Who's next? A. Andy  
24 Patch. Q. Okay. Who's next? A. Art  
25 Rozzi. Q. Who's next? A. Mark Griep.  
26 Q. Does Mark spell his name with a "K"  
27 or a "C"? A. I don't know. Q. Okay. A.

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1 And Michael Papayans. Q. Who's next?  
2 A. I don't know who that one is, Woody.  
3 Q. Woody Ris at Yahoo Dot Com, you  
4 don't know? A. Yeah. Q. Who's the  
5 next one? A. The next one could be  
6 Peter Babros. Q. Spell his last name. A.  
7 B-a-b-r-o-s. Q. Okay. Who's next? A. I  
8 don't know that one, Redondo Beach.  
9 don't know that one. Q. Who's next? A.  
10 Reno Caldwell. Q. Who's next? A.  
11 Steve Fairbrother. Q. Who's next? A.  
12 Tom Sullivan. Q. That's quite a list. Go  
13 ahead. A. And one thing I think that you  
14 asked me about the ashes, I think there  
15 has been one time that they spread the  
16 ashes of Danny [Camplin], I think.  
17 Q. Were you present for that? A. Yeah,  
18 but there were a lot of people there. So,  
19 it was like, you know. Q. So, you were  
20 present when Danny Camplin's ashes  
21 were spread in the water at Lunada Bay;  
22 is that correct? A. I was there for the  
23 ceremony, yeah. Q. And when was that?  
24 A. I think he died in '96. So, it was  
25 probably in '96 I think or maybe the  
26 following year in '97, but maybe in '96.  
27 "); Lee Dep., 158:3 to 165:11, Ex. 224

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1 (“ MS. POOLEY: Mr. Lee, you’ve been  
2 handed a one-page document that has  
3 been marked as Exhibit 224 to your  
4 deposition and is bates stamped Lee  
5 00000591. Deposition Exhibit 224 was  
6 marked for identification and is attached  
7 hereto.) Q. Have you seen Exhibit 224  
8 before? A. Yes. Q. And Exhibit 224  
9 contains an E-Mail that you sent on  
10 January 2nd, 2011, on the lower portion;  
11 correct? A. Yes. Q. And who did you  
12 send that E-Mail to? A. The one on the  
13 bottom? Q. Yes. A. That’s the New  
14 Year’s resolution. This is the one I  
15 believe that you guys -- I believe this is  
16 the one that started the chain of E-Mails.  
17 This is the first one. Q. And so who  
18 did you send it to? A. I don’t know  
19 exactly, but it was a group, I believe. Q.  
20 The same group that’s listed on the  
21 second page of Exhibit 222? A. I  
22 couldn’t tell you, but it was a group,  
23 yeah. Q. There’s a reference to, at least  
24 not in a peak; what is the peak? A.  
25 That’s the furthest out. Q. The furthest  
26 out from where? A. Further, like if  
27 here’s this land, and the waves break this

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1 way. The guy sitting the furthest out on  
2 the peak. Q. At Lunada Bay? A. Yeah.  
3 Q. Okay. A. Peak means where the  
4 wave starts to break. Q. And then you  
5 say, to tell you the truth, I would rather  
6 see an empty unridden wave at the point  
7 then to see certain people riding them.  
8 And where is the point? A. That's the  
9 right, where we surf. Q. At Lunada Bay?  
10 A. Yeah. Q. And who are the certain  
11 people you would not like to see riding a  
12 wave and prefer an unridden wave? A.  
13 I wouldn't really care, but if I was there,  
14 just the takers, you know. Q. And who  
15 are the takers that you were referring to  
16 here? A. Like Troy, you know. Q.  
17 Anyone else? A. There was Chris, but  
18 he really doesn't surf there. Q. So, were  
19 you only referring to Chris? A. Chris,  
20 me and him have personal kind of  
21 issues, not in the water. So, I just feel  
22 like he's not a real good person, you  
23 know. Other people might differ. So, me  
24 and him have a difference. It has  
25 nothing to do with surfing. Q. When  
26 you say certain people, on this E-Mail of  
27 Exhibit 224, were you referring to

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1 anyone other than Troy? A. No, no. Q.  
2 Because it reads as more than one person  
3 when you say people. So, that's why  
4 I'm asking. A. No. You've got to  
5 understand, I wrote this like kind of like  
6 you get all, obviously, you can listen to  
7 me, I'm not the best grammar, not  
8 talking stuff. So, I'm just punching  
9 stuff in. It might not be perfect  
10 grammar. I might use words that mean  
11 differently, but so. Q. So, Buffalo head  
12 is Troy? A. Yes. Q. And then there's a  
13 reference to a faggot knee boarder who  
14 rides a Stavros surfboard; is that Troy?  
15 A. No, that's Chris. Q. Chris -- A.  
16 Peterson. Q. So, you were referring to  
17 Chris Peterson as well? A. Yeah. Q. Is  
18 Chris Peterson gay? A. No. And I have  
19 to say that I was ignorant. I should not  
20 say that calling him a faggot. I'm not. I  
21 should not have said that. He's not gay  
22 Q. And then you say, and does Chris  
23 Peterson ride a knee boarder? A. Yes.  
24 Q. And it's a Stavros knee boarder? A.  
25 That's the person who made it. Q. Okay.  
26 And you say, nothing against Mike; who  
27 are you referring to; who is Mike? A.

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1 That's Mike Stavros, that's the guy. Q.  
2 You weren't calling Mike Stavros a  
3 taker, he's just the one who made the  
4 knee board; is that correct? A. No.  
5 Mike doesn't live in P.V. He lives in  
6 San Pedro. That's a totally different  
7 group. Q. You weren't referring to Mike  
8 as someone you didn't want to see  
9 riding the wave; is that correct? A. Mike  
10 Stavros? Q. Yes. A. No. I get along  
11 with Mike. Q. And then there's a  
12 reference to, one who makes millions  
13 and drives around in his \$100,000 car,  
14 but never gives -- A. Uh-huh. Q. -- who  
15 is that? A. Yeah, Mark Aricco. Q. Mark  
16 who? A. Mark Aricco. Q. Spell his last  
17 name. A. A-r-i-c-c-o. Q. Okay. And  
18 then were you referring to him as some  
19 of the certain people that you would  
20 rather not see riding the wave? A. No,  
21 me and Mark we have our ups and  
22 downs. I've known him since we were  
23 in high school. He makes a lot of money.  
24 I wish that he would do more to help out  
25 the community. Show up for trash  
26 pickup. Q. In your view is Mark Aricco  
27 a taker? A. It's hard to say because he's

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1 a nice guy. I get along with Mark, if I  
2 saw him right now even though I wrote  
3 this. I'm totally cordial with Mark, you  
4 know. Q. That's not really my question.  
5 Do you consider Mark Aricco to be a  
6 taker? A. Sometimes when he acts like  
7 it, but lately he has been, he's trying to  
8 change, I think. Q. So, in January of  
9 2011 did you think of Mike Aricco as a  
10 taker? A. Yes. Q. And he grew up  
11 where? A. He grew up in Palos Verdes,  
12 also. It's Mark Aricco. Q. Thank you.  
13 So, next you wrote, next time you're out  
14 in the water and you see one of these  
15 takers taking another wave from your  
16 promised land, our church, slash, home,  
17 slash, sanctuary, slash, temple, paren,  
18 don't think twice and let's take back  
19 what they're taking from us; do you see  
20 that? A. Yes. Q. And what did you mean  
21 by taking back what they're taking from  
22 us? A. Well, I just, nothing specific. I  
23 just feel that they could do more, you  
24 know. They just take waves. They grew  
25 up there. They should appreciate it. So,  
26 that's what I basically. Q. When you say  
27 that, that you and the people that you're

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1 sending this E-Mail to, let's take back  
2 what they're taking from us, how would  
3 you take back? A. Oh, I just mean  
4 maybe ride together. We'll just burn  
5 them. Q. So, drop in on them and burn  
6 them on their wave? A. Yeah, that was  
7 my suggestion, but understand that the  
8 people don't because I said that, they  
9 don't do what -- everybody is an  
10 individual. Q. So then you wrote, do not  
11 feel guilty when taking back what was  
12 ours in the first place. What were you  
13 referring to as yours in the first place?  
14 A. Well, I just feel like, I keep it clean. I  
15 feel that it's my home. I feel close to it,  
16 you know. I put in a lot of time and I put  
17 in a lot of effort to keep it clean. Keep it,  
18 you know, semi, keep it all respectful  
19 and stuff. I have a deep feeling for the  
20 place. So, that's what I meant. Q. And  
21 you are referring to Lunada Bay in  
22 particular -- A. Yes. Q. -- as your home  
23 -- A. Yes. Q. -- and your church and  
24 your sanctuary and your temple? A.  
25 Sure, yes, yes."); Pltfs.' RJN Supp. Opp  
26 to City MSJ., Exs. A & B [7/5/91 &  
27 5/8/95 LA Times Articles]; Wolff Decl.,

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1 ¶ 39, Exs. 43 [Transcript of C. Ferrara  
2 Audio Recording] and 38 [PLTF002027:  
3 “it’s like a fraternity. They’re going to  
4 be a dick to you because they want to see  
5 how bad you want it. You know what I  
6 mean, like a fraternity, they’re going to  
7 make you drink frickin’ piss to see how  
8 bad you want to be in this fraternity”];  
9 also stating “we are family”]; RJN, Ex.  
10 A; see also, PAMF 31.

11 26. The Bay Boys have a pecking  
12 order, where: (a) the veterans are  
13 older Bay Boys who helped shape  
14 the rules and have the greatest  
15 status and privileges, (b) the  
16 hardcore are those who enforce  
17 the rules, and (c) the associates are  
18 those hoping to move up in status,  
19 or alternatively, those who are  
20 alumni who have moved away and  
21 return occasionally. Wannabes  
22 must earn a position, and outsiders  
23 have no place  
24 **Plaintiffs Evidence:**  
25 Lee Depo., 211:8-12 (explaining “a  
26 pecking order” among the surfers at  
27 Lunada Bay and “no one really goes

26. Plaintiffs’ evidence lacks support  
that Defendant Lee is a member of the  
Bay Boys. Therefore, this fact is  
irrelevant to the claims against  
Defendant Lee.



1 beyond it. Lunada Bay people that surf  
2 there regularly . . . pretty much know[]  
3 where they sit.”), 44:3-7 (“Q. When you  
4 say – when you talk about paying dues,  
5 what do you mean? A. Just like what I  
6 just explained, just putting in your time  
7 in a place. Respecting the people that  
8 were there before you, you know, just  
9 little things.”; Wolff Decl., Ex. 8 at Lee  
10 00000001 [Sang Lee email January 8,  
11 2011: “i [sic] was brought up this way by  
12 u [sic] guys (the older boys ( [sic] not the  
13 fluffy powder puff ones but the real solid  
14 ones . . . . . [sic] u [sic] guys  
15 made up the rules n [sic] term[s] of  
16 engagement n [sic] I WILL DIE BY  
17 THESE RULES” (emphasis in original),  
18 Lee 00000595 [email from Bay Boy  
19 Tom Sullivan to Sang Lee dated January  
20 16, 2014, directing Defendant Lee to  
21 alert “the whole crew” to a surfing event  
22 scheduled to occur at Lunada Bay which  
23 was organized by outsiders “so everyone  
24 knows and we can all be on the same  
25 page”, with Bay Boy Charlie Mowat  
26 responding “I will be on the patio  
27 alllllllll [sic] day on Monday throwing

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1	out heckles and sporting a BBQ.”;	
2	Johnson Depo., 26:16-27.	
3	27. At about 60 years old, Defendants	27. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.
4	Frank Ferrara, and Angelo Ferrara	
5	are among the older members who	
6	sit at the top of the Bay Boys’	
7	hierarchy. Defendants Brant	
8	Blakeman, Sang Lee, and Alan	
9	Johnston are part of the hardcore	
10	enforcers. Charlie Ferrara and	
11	Michael Rae Papayans are second	
12	generation associates.	
13	<b>Plaintiffs’ Evidence:</b>	
14	Lee Depo., 212:16-213:24, 76:18-77:15	
15	(Frank Ferrara has “priority” over a	
16	wave because he’s been there longer); A.	
17	Ferrara Depo. 117:13-19 (identifying	
18	Brant Blakeman, Frank Ferrara, Sang	
19	Lee, and Alan Johnston as several of	
20	“the top ten people that surf [Lunada	
21	Bay] regularly for big waves”); F.	
22	Ferrara Depo. 42:7-25, 43:1-25, 56:8-10,	
23	87:10-13, 202:11-25, 203:1-2, 235:25,	
24	236:1-2, 262:2-22, 264:23-25, 265:1-3;	
25	<i>see</i> Plaintiffs’ Statement of Additional	
26	Material Facts ISO City Defendants’	
27	Motion for Summary Judgment, No.	



1 2 3	195; Wright Decl. ISO Motion for Class Certification ¶¶ 11, 17, 18 [Docket No. 159-9]	
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	28. The Bay Boys started as schoolmates, neighbors and extended family, but it grew into criminal activity when they made concerted effort to block outsiders from constitutionally-protected submerged tidelands. As a general rule, all Bay Boys are “born-and-raised” local: The individual defendants grew up in Palos Verdes Estates, and most of them attended Palos Verdes High School – which is a few blocks away from Lunada Bay. (A few attended Rolling Hills High School, aka, Rancho Palos Verdes High School because Palos Verdes High School had closed for a few years due to a lack of high school age students in the area.)	28. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.
24 25 26 27	<b>Plaintiffs Evidence:</b> Barber Depo. 71:8-72:3 (Charlie Mowat attended high school in Palos Verdes Estates); Blakeman Depo. 49:5-9	



1 (attended Palos Verdes High School ),  
2 72:24-73:2 (Defendant Alan Johnston  
3 grew up approximately three blocks  
4 away from Blakeman), 103:23-24  
5 (Defendants Blakeman and Lee have  
6 known each other for approximately 25  
7 years); A. Ferrara Depo. 27:2-3 (attended  
8 Palos Verdes High School); C. Ferrara  
9 Depo. 19:14-20 (attended Palos Verdes  
10 Peninsula High School); F. Ferrara  
11 Depo. 21:12-13 (attended Palos Verdes  
12 High School); Johnston Depo. 17:24-  
13 18:5 (graduated from Palos Verdes  
14 Peninsula High School); Lee Depo.  
15 27:14-15 (attended Palos Verdes High  
16 School), 127:10-14 (explaining that a  
17 non-local is someone who did not grow  
18 up in Palos Verdes Estates or attend a  
19 high school); N.F. Depo. 93:9-18 (stating  
20 his family, including his father,  
21 Defendant Angelo Ferrara, grew up  
22 together with the family of a current  
23 PVE Police Officer, Sean Crisfield);  
24 Johnston Depo. 42:20-43:1 (Johnston has  
25 surfed at Lunada Bay “with pretty much  
26 everyone on the defendant list”); RJN,  
27 Ex. A.

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1 29. The Bay Boys have established  
2 rules, terms, or practices that its  
3 members must follow. The  
4 foremost rule is come alone and  
5 don't bring a friend. And the  
6 second most important rule is  
7 deter outsiders from coming, i.e.,  
8 deter them, block them, threaten  
9 them, "bark" or yell at them,  
10 provoke them, hurl pejoratives at  
11 them, damage property, surf  
12 recklessly near them, do not  
13 follow surfing etiquette near them,  
14 fight them if necessary, film them,  
15 sexually harass them, and  
16 otherwise make them  
17 uncomfortable. Other rules  
18 include (a) show deference to the  
19 Bay Boy hierarchy, (b) maintain  
20 secrecy, (c) don't share surfing  
21 photos of Lunada Bay, (d) be  
22 respectful to neighbors and where  
23 you park your car, and (e) don't  
24 change in your wetsuit on top of  
25 the bluff.

26 **Plaintiffs' Evidence:**

27 Lee Depo. 118:10-20, 119:14-15,

29. Plaintiffs' evidence lacks support  
that Defendant Lee is a member of the  
Bay Boys. Therefore, this fact is  
irrelevant to the claims against  
Defendant Lee.

1 120:24-121:1, 123:7-8, 22-23 (although  
2 there is no “written rule book” there is  
3 “an understanding” among local surfers  
4 at Lunada Bay as to the ground rules for  
5 surfing there); Johnston Depo. 63:20-  
6 64:2; Wolff Decl., Ex. 8 at Lee  
7 00000001 [Def. Sang Lee Deposition  
8 Exhibit 222] (“i[sic] am who i[sic] am  
9 (with the terms of being a solid person,  
10 friend n a pirate) because I was brought  
11 up this way by u guys (the older  
12 boys)...u guys made up the rules n terms  
13 of engagement n I WILL DIE BY  
14 THESE RULES ... what we have in our  
15 backyard is priceless n u cant put a price  
16 on it...I want to keep this place sacred  
17 like its [sic] supposed to be....this place  
18 is not just a surf spot... its [sic] our home  
19 n I am not going to share it ....”].).

20 30. The Bay Boys perpetuate and  
21 enforce their rules, terms, or  
22 practices by hazing and pressuring  
23 newer members and potential  
24 members to prove their  
25 willingness to follow these rules,  
26 terms, or practices.

27 **Plaintiffs’ Evidence:**

30. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.

1 Wolff Decl., ¶ 39 & Exs. 43[Transcript  
2 of C. Ferrara Audio Recording] and 38  
3 [PLTF002027: they will “make you sit  
4 down here [at the beach] when it’s all  
5 sunny or they’re gonna make you walk  
6 up to a . . . to the liquor store to go get  
7 ‘em ice for their beer and you’re, you  
8 know, tired, but ‘oh, you want a slurpy?  
9 You gotta go do that.’”]; “if they came  
10 down and showed some respect when the  
11 surf’s good without the board, and hung  
12 out and got to know people who surf  
13 here, know the routes, know the  
14 background of the people here, that’s a  
15 start. That’s a start. The ladder’s way  
16 up here because, like I’m trying to say,  
17 this is all they have.”; hazing is “just  
18 respect, and it teaches people respect and  
19 how to be a man and . . . it’s all out of  
20 love.”]; Spencer Depo., 311:4-15  
21 (Defendant Sang Lee had to “start  
22 bringing beer for an amount of time . . .  
23 to basically get friendly with the guys  
24 down at the fort and eventually . . .  
25 [there’s] an amount of beer that lets you  
26 get in.”); Lee Depo., 44:20-45:2, 44:5-23  
27 (new surfers must “pay their dues” by

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1 showing respect to the people who have  
 2 been there longer, including by “not  
 3 paddling deeper than them, getting out of  
 4 their way when riding waves, you  
 5 know.”), Lee Depo., 122:18-8, 123:13-  
 6 23; 137:6-11; 138:4-15 (Sang Lee  
 7 showed respect for the older surfers by  
 8 “not paddling deeper than them, getting  
 9 out of their way when they’re riding  
 10 waves,” “know[ing] [his] place in the  
 11 line-up,” come by himself, wait for hours  
 12 for a wave and tolerate locals dropping  
 13 in on him, and say nothing and have a  
 14 “smiling happy face” when someone  
 15 dropped in on him. It took him “years to  
 16 gradually little bit get further up, further  
 17 up, further up” in the line-up and 5 to 10  
 18 years before locals would stop dropping  
 19 in on him; Johnston Depo. 26:16-27:8  
 20 (when Defendant Johnston grew up, he  
 21 would get heckled from sun up to sun  
 22 down and it molded him into the person  
 23 he is today).

24 31. The Bay Boys’ rules, terms, or  
 25 practices include the rule of “no  
 26 outsiders” at Lunada Bay and  
 27 respect those above you in the Bay

31. Plaintiffs’ evidence lacks support  
 that Defendant Lee is a member of the  
 Bay Boys. Therefore, this fact is  
 irrelevant to the claims against

1 Boys' hierarchy.  
2 **Plaintiffs' Evidence:**  
3 Lee Depo. 86:6-11 ("it's kind of like the  
4 etiquette up in the area" to not bring  
5 friends), 114:19-25 (younger locals must  
6 be deferential to and respectful of the  
7 older locals, meaning, "just being out of  
8 their way."), 118:10-20, 119:14-15,  
9 120:24-121:1, 123:7-8, 22-23, 189:8-12  
10 ("Q. Did you say, you can't have friends  
11 outside here because they're going to  
12 want to come out here and surf and you  
13 have to pick and choose like FaceBook?  
14 A. Yes."); Blakeman Depo. 158:7-12  
15 (surfers at Lunada Bay need 189:8-12 ' to  
16 "stay[] out of the way of people."),  
17 234:1-8 (Blakeman doesn't "invite  
18 anyone to surf the Bay" because "[i]f  
19 someone invited someone, then they  
20 invited someone."); Hagins Decl. Supp.  
21 Pls.' Mot. Class Cert ("Hagins Decl."),  
22 Ex. 6 [Surfer Magazine interviewed  
23 Frank Ferrara in 1991 and published the  
24 following statement by Frank Ferrara,  
25 stating in part: "One guy comes and surfs  
26 it, and then he brings two or three guys  
27 and they bring three or four of their

Defendant Lee.



1 friends and it snowballs and gets out of  
2 hand. That's exactly why we want to  
3 protect it," he is quoted as saying. "I've  
4 got two little boys who are 7 and 5 and I  
5 hope one day they they'll be out there  
6 shralping and tearing it up without a  
7 crowd."); Franklin Decl., Ex. 37 [Docket  
8 No. 324] [The Guardian Video of Sang  
9 Lee stating, "[Y]ou can't have friends  
10 outside here because they're going to  
11 want to come out here and surf and you  
12 have to pick and choose like  
13 FaceBook."; F. Ferrara Depo. 149:21-25,  
14 150:1- 22, Ex. 285, ("MR. OTTEN:  
15 Let's mark that document as Exhibit 285.  
16 [OBJECTION] Q. This was the article  
17 that you were mentioning earlier; is that  
18 correct? A. Yes. Q. Do you know who  
19 did the interview? A. I don't remember  
20 the guy's name, but they called me  
21 several times. Q. Okay. A. They called  
22 me several times to do an interview. And  
23 I declined a couple of times. And then  
24 when Jim had called me, hey, would you  
25 do this, I said all right. Q. Right. A. So  
26 then I agreed to do it. Q. And when you  
27 say Jim, that's Jim Russi; is that correct?

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1 A. Yes. Q. Was Jim working for, is it  
2 Surfer? A. Yeah, Surfer. Q. Was Jim  
3 working for Surfer? A. Yeah. I believe  
4 that Jim worked for about Surfer and  
5 Surfing at the same time, both  
6 magazines.”), 156:11-25, 157:1-2,  
7 159:23-25, 160:1-3, 160:9-25, 161:1-4  
8 (“Q. Okay. So, he says to you in this  
9 article, 14:15:38 what is your -- A. I  
10 know it by heart. Q. What’s your local  
11 spot. And you say, just call it a secret  
12 spot. A. Uh-huh. Q. What did you mean  
13 by that? .A It’s none of anyone’s  
14 business where I surf. If the article was  
15 about me, why would they talk 14:16:08  
16 about the surfing spot. Q. I don’t know.  
17 A. I’m just sharing with you. That’s why  
18 he didn’t need the name of it. Q. Why  
19 not just say Lunada Bay? A. It doesn’t  
20 need to be exposed. [OBJECTION] A:  
21 That was my choice. Q. When you say,  
22 the people who have come up there in  
23 the past haven’t really respected it,  
24 excuse me, what did you mean by that?  
25 A. Probably people that don’t surf there  
26 on a regular basis is maybe what I meant  
27 at that time. Remember, it’s 1991. Q.

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1 And have your opinions with respect to  
2 anything about Lunada Bay changed as  
3 you've gotten older? [OBJECTION] A.  
4 Well, I'm glad that they got rid of the  
5 patio. Q. I figured you would be; right?  
6 A. That's how it was when I started  
7 surfing there. There was no patio. It  
8 seems like it's brought back to the same  
9 environment. Q. That was the idea. A.  
10 You guys did it, so, there it is. Q. And  
11 that's a good thing for you; right, I mean,  
12 who wants to go party at the beach if  
13 you're there to go surfing; right.  
14 [OBJECTION] A: I didn't care, either  
15 way, but that's how it was when I started  
16 surfing there. So, me personally, that's  
17 how it was when I started, so, it's  
18 nice."), F. Ferrara Depo. 166:11-25  
19 167:1-11 ("Q. All right. We're almost at  
20 the end of this. Do you see where it says,  
21 as far as pecking order goes at Palos  
22 Verdes, are you on the upper ring. You  
23 say there are some older guys that surf  
24 there, but we're still fanatics; what did  
25 you mean by that? A. Well, the older  
26 guys that surf there now live in Hawaii.  
27 They were from, believe it or not,

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1 Hermosa. They were Hermosa guys that  
2 were the older guys. And then the guys  
3 like three to five years above me that I  
4 started surfing with, it was like the wave  
5 at Lunada Bay, you kind of find a spot  
6 where you would like to sit. And that's  
7 where you would want to sit. And that's  
8 where they would call it kind of the  
9 pecking order. If you want to choose the  
10 most critical or non-critical, towards the  
11 end of the wave or deep spot on the  
12 wave. That's what we meant by the  
13 pecking order. Q. So, the younger people  
14 give deference to the older folks that  
15 have been surfing there longer? A. I  
16 believe it's the older folks have found a  
17 spot in the line-up where they like to sit  
18 and takeoff."), 168:22-25; 169:1-25;  
19 170:1-25; 171:1-10; 174:18-25; 175:1-7  
20 (“(Deposition Exhibit 287 was marked  
21 for identification and is attached hereto.)  
22 Q. This is entitled, Today's Lesson:  
23 Don't Be A Kook. And I think that you  
24 said that this was what you wrote in  
25 response to the last exhibit which was  
26 called, Teach the Children Well? A.  
27 Yes.[OBJECTION] Q. And you wrote

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1 this; correct? A. Yes. Q. And did you  
2 write it in the year of 1992? A.  
3 Whenever the date was. Q. So, this is  
4 responding, it says, responding to Teach  
5 The Children Well letter, February of  
6 1992; it would have been in that time  
7 frame? A. Yeah. Q. You say responding  
8 to the Teach The Children Well letter,  
9 February of 1992 by the Kook, Don  
10 Boller, of Long Beach, California. I  
11 know there's no surf in Long Beach,  
12 Don. So now I know why you have to  
13 travel to surf. That's your problem, not  
14 mine. Q:What did you mean by that? A.  
15 Just what it says." F. Ferrara Depo.,  
16 220:1-16; "Ferrara acknowledged that he  
17 was quoted Surfer Magazine in 1991,  
18 explaining that the Peninsula surfers,  
19 quote, protect the break so it can be  
20 enjoyed by them and their children  
21 without a crowd. A. I didn't state that  
22 like that. Q. Okay. What's wrong with  
23 the way that she wrote it? A. Well, she  
24 said Ferrara acknowledged he was  
25 quoted in Surfer Magazine in 1991  
26 explaining that Peninsula surfers protect  
27 the break so it can be enjoyed by them

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1 and their children without a crowd. She  
 2 missed shralping it up without a crowd.  
 3 Q. Okay. A. It sounds a little fun.  
 4 Lighten it up. You got the shralping;  
 5 right.” ); Johnston Depo. 35:3-10  
 6 (Johnston has never brought any friends  
 7 from outside the area to surf at Lunada  
 8 Bay because he thinks “it’s just  
 9 disrespectful just for everyone that has  
 10 paid dues to grow up there or just – it’s  
 11 just something that you don’t do in the  
 12 surfing world.”); A. Ferrara Depo.  
 13 64:24-65:2 (“Yeah, that’s always kind of  
 14 etiquette, you know. Like, wait your  
 15 turn. A lot of people don’t understand  
 16 that. They just keep coming back for  
 17 another wave everywhere.”), 140:11-13  
 18 (“Do other people that surf Lunada Bay  
 19 welcome outsiders? No.”).

20 32. Defendants Angelo Ferrara and  
 21 Frank Ferrara (father to Defendant  
 22 Charlie Ferrara), “made up the  
 23 rules [and] terms of engagement”  
 24 decades ago.

25 **Plaintiffs’ Evidence:**  
 26 Lee Depo. 121:5-16, 107:17-24; Wolff  
 27 Decl., Exs. 8 [Def. Sang Lee Deposition

32. Undisputed for the limited purpose of  
 the Motion, however Defendant Lee  
 reserves all rights regarding this issue.  
 This fact is irrelevant to the claims  
 against Defendant Lee.

1 Exhibit 222, Lee 00000001]; 43  
 2 [Transcript of C. Ferrara Audio  
 3 Recording], & 37 [PLTF002027: “It’s  
 4 the way it’s been here for . . . as long as  
 5 my dad was a kid. My dad’s 59 years  
 6 old. For 59 years it’s been like that.  
 7 Who are you to come here and change  
 8 something?”]; Wright Decl. ISO Motion  
 9 for Class Certification ¶17 [Docket  
 10 No. 159-9].

11 33. The Bay Boys’ purpose and  
 12 common effort is to exclude  
 13 “outsiders” or “non-locals” from  
 14 visiting or surfing at Lunada Bay.  
 15 **Plaintiffs’ Evidence:**  
 16 Wolff Decl., Exs. 8 [Def. Sang Lee  
 17 Deposition Exhibit 222, Lee 00000001]  
 18 (Lunada Bay “is not just a surf spot” but  
 19 instead “its [sic] our home . . . n [sic] I  
 20 am not going to share it with people who  
 21 r [sic] selfish n [sic] not understanding of  
 22 their surroundings.”; “I want to keep our  
 23 home the way it should be kept (nice n  
 24 [sic] clean with no takers.)”); Lee  
 25 Depo., 93:8-24; 125:21-126:3  
 26 (“everything would get destroyed” and it  
 27 would “ruin everything” if outsiders

33. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.



1 were allowed to surf at Lunada Bay);  
2 Wolff Decl., ¶ 39 & Exs. 43[Transcript  
3 of C. Ferrara Audio Recording] and 38  
4 [PLTF002027: [Charlie Ferrara stating  
5 “the reason is one person gets along –  
6 oh, they’re cool – everyone gets along,  
7 and then it turns into Rincon and Malibu.  
8 Oh, they got the sweet ticket . . . why  
9 didn’t I get the golden ticket? Trust me,  
10 it’s how it goes.”]; RJN, Ex. B & Wolff  
11 Decl. ¶ 45 [5/8/95 LA Times Article]  
12 (the exclusion of outsiders is “not just a  
13 barbaric thing, it is done for a purpose.”);  
14 Blakeman Depo. 298:20-299:7; 301:19-  
15 24; 307:14-21 (“Q. Would it be, in your  
16 opinion, safer if there were trail  
17 improvement? . . . A. I think it’d be more  
18 dangerous because more people would  
19 access it”); Pltfs.’ RJN Supp. Opp to  
20 City MSJ., Ex. A [7/5/91 LA Times  
21 Article (The Bay Boys exclude outsiders  
22 so they can “have [their] own little  
23 sanctuary” while other beaches are filled  
24 with intense crowds.); Johnston Depo.  
25 26:16-28:2 (Johnston believes that the  
26 Lunada Bay “surf break is just really  
27 crowded and there isn’t any excess

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1 waves for outsiders”), 28:2-15 (outsiders  
2 are “people who don’t know everybody  
3 at the surf break,” referring to Lunada  
4 Bay).

5 34. The Lunada Bay locals have a  
6 gang mentality, and attempt to  
7 dissuade outsiders from coming to  
8 City. They are territorial,  
9 discourage outsiders from using  
10 the beach, and intimidate  
11 outsiders.

12 **Plaintiffs’ Evidence:**

13 Best Depo. 157:22-25, 158: 1-25, 159:1-  
14 21; Kepley Depo. 67:15-27, 68:1-12  
15 (“Q: Now, you said that the Bay Boys  
16 have a gang like mentality or a gang  
17 mentality, what did you mean by  
18 that?..[objections and colloquially]...  
19 A: Okay. So the gang like mentality  
20 that I referred to was the way in which  
21 gangs, street gangs, often claim a  
22 territory. And will confront people who  
23 come into their territory, where you  
24 from, what are you doing, type of thing.  
25 Some of what was relayed to me with  
26 respect to those involved in disputes  
27 down on Lunada Bay in dissuading them

34. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys or a member of the “Lunada Bay locals.” Therefore, this fact is irrelevant to the claims against Defendant Lee.

1 from coming to surf there, because they  
2 are not from there. That was a similarity  
3 to how some gang members might speak  
4 to a person coming into a particular  
5 area.”); Kepley Depo. 221:4-8  
6 (“Q: Earlier you said you thought they  
7 had a gang mentality, but they are not a  
8 gang because they are not shooting  
9 people and they are not stabbing people;  
10 is that right? A: I did make statements  
11 like that, yes.); Franklin Decl. ¶26, Ex.  
12 18; see also Plaintiffs’ Additional  
13 Material Facts ISO Opp. to City’s MSJ.  
14 Plaintiffs’ Additional Material Facts  
15 [Docket No. 323] Nos. 163, 166, 171,  
16 172.

17 35. The Bay Boys’ longstanding rules,  
18 terms, or practices include  
19 harassing and intimidating  
20 “outsiders” who visit or try to surf  
21 at Lunada Bay, including through  
22 seeking to have large numbers of  
23 Bay Boys present when visitors  
24 come to Lunada Bay, directing  
25 pejoratives at outsiders (“faggot”  
26 “bitch” “whore” “kook” and even  
27 dressing in black face on Martin

35. Plaintiffs’ evidence lacks support  
that Defendant Lee is a member of the  
Bay Boys. Therefore, this fact is  
irrelevant to the claims against  
Defendant Lee.

1 Luther King Jr. Day), approaching  
2 visitors aggressively, blocking  
3 paths to the shoreline, telling  
4 visitors they cannot or should not  
5 be coming to Lunada Bay,  
6 heckling, starting or trying to start  
7 fights, throwing rocks, vandalizing  
8 cars, circling surfers in the water  
9 so that they cannot catch waves,  
10 and “dropping in” on or “burning”  
11 surfers.

12 **Plaintiffs’ Evidence:**

13 Neushul Decl. ISO Motion for Class  
14 Certification ¶18 [Docket No. 184-1]  
15 (“Because of its reputation, most non-  
16 City-residents and visiting surfers avoid  
17 Lunada Bay. This is because of the Bay  
18 Boys’ efforts to discourage visitors from  
19 coming to Lunada Bay is a deterrent.  
20 Indeed, while it’s a prized wave, Lunada  
21 Bay is known to only have a few surfers  
22 using it.”); Neushul Decl. ISO Motion  
23 for Class Certification ¶19 [Docket No.  
24 184-1] (“I have long known of the  
25 reputation of the Bay Boys as a longtime  
26 resident of Southern California, surfer,  
27 and a surf historian.”); Barber Depo.

1 101:8-22 (“Q: How about a name, Peter  
2 McCollum? Do you know that name? A:  
3 I know the name. Q: How do you know  
4 the name? A: He was involved in an  
5 incident – ‘95. I don’t know. I has just  
6 gotten on, I believe. There was a – an  
7 argument, and it made the news. I know  
8 he was on it. I know the video shows  
9 him kid of yelling on the video, but  
10 that’s all. I’ve never met Mr. McCollum  
11 in my life, though. Q: Okay. So the  
12 video of Mr. McCollum yelling on the  
13 top of the bluff – I think it’s Mr. Hagens  
14 and Hamboy [sic] [a boy]. Do you recall  
15 seeing the video? A. Yes, I did see that.  
16 Q. When did you see that? A. Probably  
17 not long after it happened.”); Franklin  
18 Decl.¶17, Ex. 16,¶¶ 18,19 (““You got it  
19 son? You got it? Hey, I’m not touch’n  
20 nobody. Nothing. But you won’t surf  
21 here again boy. You won’t surf here  
22 again. Fuck that. Fuck you guys. I’ve  
23 lived here too long for this shit.”);  
24 Blakeman Depo. 230: 16-25 (“Q: Have  
25 you ever heard of someone standing at  
26 the top of either the Middle trail or the  
27 Point trail questioning why they’re there,

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1 in terms of using Lunada Bay? A: I'm  
2 aware of the Peter McCollum  
3 incident.”); Johnston Depo. 212:20-  
4 213:8 (saying that circling another surfer  
5 is the worst thing you could do to  
6 someone and likely to make them mad.  
7 And, see, e.g., Bacon Decl. ISO Motion  
8 for Class Certification [Docket No. 168];  
9 Carpenter Decl. ISO Motion for Class  
10 Certification [Docket No. 161]; C.  
11 Claypool Decl. ISO Motion for Class  
12 Certification [Docket No. 176]; K.  
13 Claypool Decl. ISO Motion for Class  
14 Certification [Docket No. 166], Claypool  
15 Decl. Supp. Pls.’ Mot. Class Cert.  
16 (“Claypool Decl.”), ¶¶ 12 (“On  
17 November 5, 1995, I attended “Take  
18 Back Our Public Beaches Day -- Surf  
19 Lunada Bay Peaceful Protest,” a public  
20 protest of localism in Palos Verdes  
21 which was organized by Geoff Hagins.  
22 There were people on each side yelling  
23 at each other and lots of screaming. But  
24 a few Lunada Bay locals were becoming  
25 extra aggressive.... with the Bay Boys  
26 screaming and demonstrating physically  
27 threatening behavior. It seemed like the

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1 locals wanted to start a fight ....  
2 someone called in a bomb threat and the  
3 police made the visitors and others on  
4 the shoreline leave the beach.”), ¶ 14  
5 (“The first time that I attempted to surf  
6 the point where the Lunada Bay locals  
7 primarily surf, however, was quite a  
8 different experience. ...As soon as I  
9 reached the lineup, the person began to  
10 hassle me. He paddled over and stated:  
11 ‘So you are bringing the whole circus?’  
12 He was about 45 years old. Even though  
13 it was not crowded, this person  
14 purposefully and dangerously proceeded  
15 to drop in on me on about five waves. I  
16 am confident he was attempting to  
17 discourage me from returning by trying  
18 to make my experience that day  
19 completely miserable.”), ¶ 19 (“One  
20 morning in February 2014, I went to surf  
21 Lunada Bay and arrived at 4:45 am. I  
22 walked to an area of the cliff north of the  
23 trail to check the waves. Suddenly two  
24 guys walked up to me - one on each side.  
25 They stood unusually close to me,  
26 particularly since I did not know them,  
27 and stared at me in an effort to intimidate

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1 me. I was so frightened that I walked  
2 back to my truck but the two men  
3 followed me. The guy on my left was  
4 large with sandy blond hair and looked  
5 middle aged. The guy on my right and  
6 had brown or black hair and was thinner  
7 and younger. I did not feel safe so I got  
8 in my car and left.”); 20-21 (“March 11,  
9 2014 was the first time that I surfed  
10 Lunada Bay since ....many years  
11 before.... I drove there with my friend  
12 Tom Wolley who stayed on the top of  
13 the bluff with a camera and cell phone.  
14 As I walked down the ‘goat trail’ nearest  
15 the point in front of the Rock Fort, a  
16 teenager passed me and turned around. I  
17 think it was Angelo Ferrara’s son.  
18 Slowly walking backwards, the teenager  
19 said: ‘You are the one posting on  
20 Facebook. You shouldn’t be here.  
21 Kook. You are starting shit on FB.’  
22 Around this time, people were posting  
23 things on the Aloha Point Facebook to  
24 encourage outsiders to surf at Lunada  
25 Bay. I guess this kid thought I had  
26 something to do with it. I then attempted  
27 to make my way down the goat trail to

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1 the water, but because I had never  
2 proceeded down the trail before and  
3 because it is not marked, I accidentally  
4 took a turn down a wrong extension and  
5 could have fallen. It was extremely  
6 frightening. When I eventually made it  
7 to the bottom and started putting on my  
8 wetsuit, one of the local surfers  
9 immediately got in my face. He was  
10 about 5'10 and wearing faded jeans. He  
11 was within inches of my face yelling  
12 how stupid I was and that I had no  
13 business being down there. I could feel  
14 spit from his mouth hit my face as he  
15 screamed: Go out in the water and see  
16 what happens. You should just go now.  
17 Get out of here now. You're lucky you  
18 did not have to be rescued. After that  
19 guy left, another local came over and  
20 made similar comments. One after  
21 another, still more locals would come  
22 over and say the same thing: You  
23 shouldn't be here – you are not going to  
24 catch a wave, go out there and see what  
25 happens. I ended up paddling out but  
26 never went to the peak in an effort to  
27 avoid them. I caught a few smaller

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1 waves while sitting in the water close to  
2 the beach.”), 23 (in January 2015, Brant  
3 Blakeman yelled at K. Claypool while he  
4 was in the water at Lunada Bay, stating  
5 “Try and catch a wave and see what  
6 happens. There is no fucking way  
7 you’re getting a wave.”); Wright Decl.  
8 ISO Motion for Class Certification ¶ 4  
9 [Docket No. 159-9] (When Wright  
10 visited Lunada Bay with a friend when  
11 he was about 16 years old, “two men in  
12 their 30s or 40s who were on the bluff  
13 walked over to us and said things  
14 including: (a) ‘You can’t surf here;’ (b)  
15 ‘You will have a terrible time if you  
16 paddle out here;’ (c) ‘If you try to go out,  
17 everyone will drop in on you;’ and (d)  
18 ‘You won’t catch any waves if you try to  
19 paddle out here.’ These men, whom I  
20 believe to be Bay Boys, followed us  
21 back to the car where my friend’s mother  
22 waited, and escalated their verbal  
23 threats.”; Wright Decl. ISO Motion for  
24 Class Certification ¶ 9 [Docket No. 159-  
25 9] (On January 6, 2012, when Wright  
26 visited Lunada Bay and was harassed by  
27 Bay Boys upon approaching the

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1 shoreline, he got in the water and “was  
2 verbally accosted by a new group of Bay  
3 Boys, who yelled at me and called me a  
4 ‘fucking kook.’ They said, ‘What the  
5 fuck are you doing surfing here?’ Any  
6 time I attempted to paddled to the main  
7 break, they also said, ‘Get the fuck back  
8 on the inside. You can’t surf out here.’ I  
9 was dangerously dropped in on several  
10 times, which forced me go left towards  
11 the rocks and away from the breaking  
12 waves. The Bay Boys also shot their  
13 surfboards at me in an attempt to knock  
14 me off waves as I was catching them.”);  
15 Wright Decl. ISO Motion for Class  
16 Certification ¶ 12 [Docket No. 159-9]  
17 (Wright “had been waiting my turn for  
18 waves and was the deepest outside and  
19 closest to the peak when a set wave came  
20 through. By regular surfing norms, I had  
21 priority. I caught the 10- to 12-foot-high  
22 wave and was up riding for several  
23 seconds. A person whom I now  
24 understand to be Alan Johnston paddled  
25 the wrong way on this wave, dropped in  
26 on me going the wrong way on the wave,  
27 and yelled, ‘Oh no, you don’t!’

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1 Dropping in on a surfer while going the  
2 wrong way is well known to be against  
3 normal surf etiquette. Alan Johnston then  
4 collided with me, and our leashes got  
5 tangled. After we surfaced from the  
6 collision, Johnston then got close to me  
7 and yelled, ‘You had to fucking take that  
8 wave, didn’t you!’ I took off my leash to  
9 get untangled as we were still in the surf  
10 and held the leash close to my board.  
11 Because there was no flex in my leash  
12 since I was holding it close to the board,  
13 the next wave that came through then  
14 broke my leash plug and the board was  
15 carried into the rocks, breaking my board  
16 up badly— essentially ruining a new  
17 board. I had to swim in over rocks to get  
18 my board and cut my hands on the rocks  
19 doing so. In my more than 20 years of  
20 surfing, I’m confident that Johnston was  
21 attempt[ing] to purposefully injure  
22 me.”); Wright Decl. ISO Motion for  
23 Class Certification ¶ 13 [Docket  
24 No. 159-9] (A Bay Boy yelled “fucking  
25 faggots” as Wright was getting ready to  
26 go down to surf with Ken Claypool.  
27 “The person who called us ‘faggots’ later

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1 returned when I was leaving and  
2 attempted to tell me how I could surf  
3 Lunada Bay: ‘Go early, come alone, and  
4 don’t bring a GoPro or you will be a  
5 target to be hassled.’“); Wright Decl.  
6 ISO Motion for Class Certification ¶ 15  
7 [Docket No. 159-9] (After a devising a  
8 system to arrive early to avoid the Bay  
9 Boys’ harassment, on one early morning,  
10 “two younger surfers, who I understand  
11 to be Bay Boys, were already in the  
12 water. These two were in their mid-to-  
13 late 20s. I believe one of them could  
14 have been one of the younger Ferrara  
15 boys. They said words to the effect of,  
16 ‘You think you can sneak up on us by  
17 paddling across the bay from Middles  
18 and surf here? No way. You can’t surf  
19 today.’ I explained that I’d talked to Zen  
20 Del Rio and that he said it was okay if I  
21 came alone and came out early. They  
22 said, ‘Don’t name-drop out here.’ And  
23 then, they paddled up within a few feet  
24 of me. They yelled, ‘We can do this the  
25 easy way—you paddle in right now. Or  
26 we do it the hard way, and you paddle in  
27 with a broken nose.’ They raised their

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1 arms like they were going to hit me; I  
2 believed they intended to carry out their  
3 threat to harm me. I paddled in because  
4 I felt they would make good on their  
5 threat to cause me harm.”); Conn Decl.  
6 ISO Motion for Class Certification  
7 [Docket No. 174]; Gero Decl. ISO  
8 Motion for Class Certification [Docket  
9 No. 170]; Gersch Decl. ISO Motion for  
10 Class Certification [Docket No. 162];  
11 Hagins Decl. ISO Motion for Class  
12 Certification [Docket No. 178]; Innis  
13 Decl. ISO Motion for Class Certification  
14 [ Docket No. 165]; Jongeward Decl. ISO  
15 Motion for Class Certification [Docket  
16 No. 177]; Krell Decl. ISO Motion for  
17 Class Certification [Docket No. 180];  
18 Lanning Decl. ISO Motion for Class  
19 Certification [Docket No. 172];  
20 MacHarg Decl. ISO Motion for Class  
21 Certification [Docket No. 160]; Marsch  
22 Decl. ISO Motion for Class Certification  
23 [Docket No. 179]; Neushul Decl. ISO  
24 Motion for Class Certification [Docket  
25 No. 173]; Otten Decl. ISO Motion for  
26 Class Certification [Docket No. 159-3];  
27 Perez Decl. ISO Motion for Class

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1 Certification [Docket No. 164]; Sisson  
2 Decl. ISO Motion for Class Certification  
3 [Docket No. 169]; Will Decl. ISO  
4 Motion for Class Certification [Docket  
5 No. 163]; Young Decl. ISO Motion for  
6 Class Certification [Docket No. 167];  
7 Ollinger Decl. ISO Opp to City MSJ, ¶¶  
8 6, 8, 9, 10; Pinkerton Decl. ¶¶ 5-7; *see*  
9 *also* Plaintiffs’ Statement of Additional  
10 Material Facts ISO Opposition to City  
11 Defendants’ Motion for Summary  
12 Judgment [Docket No. 323] 155  
13 (“During the first Lunada Bay Martin  
14 Luther King, Jr. Day event on January  
15 20, 2014, with City police present, a  
16 native Hawaiian (and later Coastal  
17 Protection Ranger volunteer) Christopher  
18 Taloa was told by a local wearing  
19 blackface and an afro wig: ‘You don’t  
20 pay enough taxes to be here.’), 156  
21 (“When Taloa attempted to surf Lunada  
22 Bay, he was asked: ‘Who are the black  
23 guys on the cliff?’ And then he was told  
24 by a local surfers that they owned the  
25 local police and judges. Taloa was  
26 threatened with this: ‘I’m going to have  
27 you arrested and have you f\*#@#&% in

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1 the ass by a black or Mexican in the  
2 holding cell.’ ) 157 ( “In an effort to  
3 deter outsiders, local surfers direct  
4 pejoratives at them like ‘kook,’ ‘gook,’  
5 or ‘fucking faggots.’), 158 (“City admits  
6 few persons of color and few others in  
7 protected categories use Lunada Bay. “),  
8 C. Ferrara Depo. 84:6-7 (“I feel like  
9 prejudices over in Hawaii. They really  
10 didn’t like white people.”); Johnston  
11 Depo. 100:1-25 (Johnston says the word  
12 “gay” means “lame” in surfer talk, which  
13 is how he uses it.), 100:13-14; 103:8-14  
14 (Johnston says “super gay” he means  
15 “super lame.”), 101:5-10 (Johnston  
16 wears a shirt with “LGBT” on it, with  
17 pictures depicting “liberty, guns, beer,  
18 and tits” as the true meaning for him.).

19 36.Over the years, the Bay Boys have  
20 revised and perfected their  
21 strategy of exclusion, aiming to  
22 make outsiders’ experiences at  
23 Lunada Bay so miserable that they  
24 won’t come back.

25 **Plaintiffs’ Evidence:**

26 Wolff Decl., ¶ 39 & Exs. 43 [Transcript  
27 of C. Ferrara Audio Recording] and 38

36. Plaintiffs’ evidence lacks support  
that Defendant Lee is a member of the  
Bay Boys. Therefore, this fact is  
irrelevant to the claims against  
Defendant Lee.

1 [PLTF002027 (Charlie Ferrara, stating:  
2 “I can’t tell you you can’t be down here.  
3 I can’t tell you that, you know. I can’t  
4 tell you you can’t go surfing, but what I  
5 can do is make sure you don’t have fun  
6 out there. You know what I mean? And  
7 then what’s the point of that? You’re  
8 going to come here when the surf’s good  
9 everywhere else and get burned and have  
10 a bad day? That’s, cuz that’s, you know,  
11 that’s what we’re gonna keep on doing.  
12 They want to come out we’re just gonna  
13 keep on burning them and make them  
14 have a bad session because we’re going  
15 to stick together and like attack cuz we  
16 are. We are family”; “They’ve been  
17 recorded and stuff while they’re, you  
18 know, rousting [outsiders] and get  
19 recorded and they get in trouble . . .  
20 that’s why now we’re not, you know,  
21 doing stuff, and now we’re just burning  
22 people.”]; Wolff Decl., Exs. 8 [Exhibit  
23 223 to Lee Deposition, Bates Lee  
24 000000015 (Defendant Sang Lee  
25 reminded other Bay Boys in an email of  
26 their preferred strategy to exclude  
27 outsiders: “[I] do NOT want to see my

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1 friends get in trouble with the law /  
2 theres [sic] other options to deterr [sic]  
3 outsiders from surfing our home such as  
4 we can ride together or its [sic] a long  
5 walk up the trail in bare feet.”  
6 Defendant Lee further explained that he  
7 did not want to see other Bay Boys “so  
8 fired up on trolls” that they “immediately  
9 get[] into fights or threaten[] the  
10 outsiders n [sic] get into trouble.”  
11 Instead, he explained “THERES [sic]  
12 OTHER OPTIONS THAN THREATS N  
13 [sic] VIOLENCE TO MAKE THEIR  
14 TIME IN OUR HOME A BUMMER.”)].

15 37.Exclusion of nonlocals by the Bay  
16 Boys takes many forms. The Bay  
17 Boys will hurl pejoratives, heckle,  
18 and hassle outsiders who try to  
19 surf at Lunada Bay. The Bay  
20 Boys will violate the local surf-  
21 riding ordinance, block outsiders  
22 movements, and will also drop in  
23 on the outsiders putting them at  
24 serious risk of harm. The Bay  
25 Boys expect the outsiders to “take  
26 it, deal with it, and just don’t  
27 mouth out.”

37. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.

**1 Plaintiffs’ Evidence:**  
**2** Lee Depo. 137:8-137:3, 138:4-15; 83:16-  
**3** 18, 84:5-17, 85:2-3, 155:7-16 (Lee  
**4** admits to heckling nonlocals at Lunada  
**5** Bay between 10 and 30 times because he  
**6** “just felt like it.” He also recalls hearing  
**7** others yelling “boo” at outsiders), 225:4-  
**8** 13 (Lee admits there is “maybe a little  
**9** bit [of Localism]” at Lunada Bay  
**10** because “people get heckled and [he]  
**11** heckle[s] people.”), 152:17-25, 153:11-  
**12** 13 (explaining that the Bay Boys have a  
**13** variety of means of making outsiders’  
**14** time in “their home” a “total bummer,”  
**15** like by dropping in on them or heckling  
**16** them), 75:3-7 (if someone is not  
**17** following proper surfing etiquette, Lee  
**18** “might drop in on them . . . yeah, I’m  
**19** going to go.”); Blakeman Depo. 167:17-  
**20** 21, 169:4-9 (stating it is okay to drop in  
**21** on a surfer who doesn’t wait his or her  
**22** turn and that he has seen it happen); *see*  
**23** *also* Pltfs.’ RJN Supp. Opp to City MSJ.,  
**24** Ex. B [5/8/95 LA Times Article].

**25** 38. The Bay Boys seek to discover  
**26** plans of “outsiders to visit or surf  
**27** at Lunada Bay, such as by looking

38. Plaintiffs’ evidence lacks support  
 that Defendant Lee is a member of the  
 Bay Boys. Therefore, this fact is



1 for references to Lunada Bay in  
2 social media, and then coordinate  
3 to be present in large numbers to  
4 harass the visitors. They  
5 coordinate by e-mail and text  
6 messages, among other things.

7 **Plaintiffs' Evidence:**  
8 Wolff Decl., Exs. 8 [Exhibits 225, Bates  
9 Lee 00000595 & 226, Bates Lee  
10 000000596] (On January 16, 2014, Bay  
11 Boy Tom Sully emailed Defendant Sang  
12 Lee and asked him to forward an email  
13 "to the whole crew so everyone knows  
14 and we can all be on the same page."  
15 The email related to a Monday, January  
16 20, 2014 Martin Luther King, Jr.  
17 Celebration event that was planned to  
18 take place at Lunada Bay, much to the  
19 Bay Boys' chagrin. Defendant Sang Lee  
20 dutifully passed along Tom Sully's email  
21 to "the whole crew." Bay Boy Charlie  
22 Mowat responded to Defendant Lee's  
23 email by stating "I will be on the patio  
24 allllllllllll day on Monday throwing out  
25 heckles and sporting a BBQ. I'm  
26 already warming up. Don't miss the  
27 fun." Recipients of this email included

irrelevant to the claims against  
Defendant Lee.

1 Andy Patch, Charlie Beukema  
 2 (Defendant Angelo Ferrara’s stepson),  
 3 David Melo, Mark Griep, and Zen Del  
 4 Rio, among many others. Charlie  
 5 Mowat again wrote to Defendant Lee,  
 6 Tom Sully, and several others, to say  
 7 “[h]ope you’re off Monday for the  
 8 fiasco. I’m going to sponsor a BBQ and  
 9 be on the patio all day.”); Johnston  
 10 Depo. 74:6-77:21, Ex. 342 (Cell Record  
 11 Detail) (texts referring to outsiders as  
 12 “trolls” and confirming that they didn’t  
 13 get to surf); Johnston Depo. 156:18-22,  
 14 Ex. 344 (Phone Bill Records); Johnston  
 15 Depo. 157:1-12 Ex. 345 (Text  
 16 Messages).

17 39. When Bay Boys find “outsiders”  
 18 at Lunada Bay, they coordinate to  
 19 have more Bay Boys come to  
 20 Lunada Bay in large numbers.  
 21 They coordinate by mobile phone  
 22 calls and text messages, among  
 23 other things.  
 24 **Plaintiffs’ Evidence:**  
 25 Wolff Decl., ¶ 39 & Exs. 43 [Transcript  
 26 of C. Ferrara Audio Recording] and 38  
 27 [PLTF002027 (Charlie Ferrara, stating:

39. Plaintiffs’ evidence lacks support  
 that Defendant Lee is a member of the  
 Bay Boys. Therefore, this fact is  
 irrelevant to the claims against  
 Defendant Lee.

1 “I was calling people to get down here.  
 2 Get the frick out. We need people  
 3 surfing.”]; Wolff Decl., Ex. 6 (Johnston  
 4 Depo., Ex. 342) [Alan Johnston Chat  
 5 Messages at entries 1036- 1038: “If u  
 6 really wanna be a bay boy we might  
 7 meet [sic] your help tomm,” “Could be a  
 8 great help if ur there !!! Supposed to be a  
 9 police setup at our spot calling all gards  
 10 [sic].”]; Wolff Decl., ¶¶ 40 & Ex. 39  
 11 [Defendant Lee Cell Phone Records at  
 12 0273-0275, indicating Sang Lee called  
 13 Defendant Blakeman 62 times on  
 14 January 29, 2016, the day Plaintiff  
 15 Spencer was attacked]; ¶ 42 & Ex. 41  
 16 [Alan Johnston Chat Messages at entries  
 17 1033 and 1036 (On February 12, 2016,  
 18 Defendant Johnston sent a text message  
 19 to a friend, stating: “If u really wanna be  
 20 a bay boy we might meet [sic] your help  
 21 tomm,” to which his friend responded  
 22 “Anywhere in Pv especially your home  
 23 break is special to me”)].

24 40. When Bay Boys find “outsiders”  
 25 at Lunada Bay, they coordinate  
 26 their harassment and intimidation  
 27 of such visitors.

40. Plaintiffs’ evidence lacks support  
 that Defendant Lee is a member of the  
 Bay Boys. Therefore, this fact is  
 irrelevant to the claims against

**1 Plaintiffs' Evidence:**  
**2** Reed Depo. 300:18-25 (“Well, during  
**3** the incident that occurred on February  
**4** 13th, it appeared as though he had  
**5** orchestrated that event with Mr. Jalian  
**6** Johnston. Q. What specifically did he do  
**7** that made you think that he had  
**8** orchestrated that? A. It appeared as  
**9** though they had planned the event out in  
**10** an attempt to try to ruin my camera and  
**11** in an attempt to try to intimidate me.”),  
**12** 320:3-5 (“I feel like [Blakeman’s] role in  
**13** the attack was to record rather than to  
**14** speak and to intimidate through his  
**15** camera.”); Wright Decl. ISO Motion for  
**16** Class Certification ¶ 8 [Docket No. 159-  
**17** 9] (When Wright tried to visit Lunada  
**18** Bay on January 6, 2012 with his father  
**19** and a friend, he borrowed a board from  
**20** Kennedy Surf Shop where he was  
**21** warned by another surfer “words to the  
**22** effect of ‘I grew up in Palos Verdes.  
**23** Don’t go there. The Bay Boys protect  
**24** that place and you can’t surf there.’“  
**25** When Wright’s group arrived at Lunada  
**26** Bay, they “walked to the bluff and were  
**27** approached by a person whom I believe

Defendant Lee.

1 to be a Bay Boy, who said, ‘It’s really  
2 dangerous here today, you shouldn’t surf  
3 here.’ I responded by saying, I surf  
4 Mav’s and have surfed waves twice this  
5 big. This is no problem.’ After this, the  
6 man became more confrontational and  
7 said things in a raised voice like: (a) ‘It’s  
8 still dangerous out there, and you could  
9 get hurt;’ (b) ‘No one out there will let  
10 you catch waves if you paddle out;’ and  
11 (c) ‘If you go out, the people out there  
12 will make sure you don’t have fun.’“  
13 Wright’s group decided to go down to  
14 the water, and “men who I believe are  
15 Bay Boys surrounded the entrance to the  
16 trail. They were extremely aggressive  
17 and angry, and even though I had not  
18 spoken to them and neither had Nurnur  
19 nor my dad, they said things about me  
20 being from Maverick’s. They filmed and  
21 photographed us, and called us kooks. I  
22 saw others pull out phones, and what I  
23 believed to be a walkie talkie or other  
24 type of communication device, and I  
25 observed them calling and texting. At  
26 the bottom of the bluff on the shoreline,  
27 different men who I believe to be Bay

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1 Boys were visibly angry and approached  
2 us. They repeated the exchange we had  
3 with the men at the top of the bluff, even  
4 though we had not spoken with any of  
5 these men. As an example, one of them  
6 said, ‘Oh, you’re that guy from  
7 Maverick’s, huh?’ This leads me to  
8 believe the men on the bluff and the men  
9 on the shoreline were coordinating their  
10 efforts. Then, the men below yelled  
11 things including: (a) ‘It’s dangerous out  
12 here and someone might get hurt!’, (b)  
13 ‘You should not be here!’ (c) ‘You won’t  
14 have any fun!’, (d) ‘It’s too crowded for  
15 you to go out!’, and (e) ‘Nobody is going  
16 to let you catch a wave!’ One of the men  
17 saw my dad’s [Los Angeles County  
18 Sheriff’s] badge around his neck and  
19 said, ‘Oh, you’re the muscle, huh?  
20 That’s some fucking bullshit.’ Then,  
21 another surfer who I believe to be a Bay  
22 Boy approached me—he was less overtly  
23 hostile in his tone and body language.  
24 This person [said]: ‘I will probably get  
25 hassled and in trouble just for talking to  
26 you. I’m just out of prison and don’t like  
27 the drama of the other guys. But those



1 guys may attack you. They will drop in  
2 on you. They will harass you, and you  
3 won't get any waves. It's the way it is.'"  
4 I asked, "If we paddle out and sit on the  
5 inside, won't that be okay? Isn't that  
6 good enough?" He said, "No. Just being  
7 here is too much. But if you insist on  
8 going out, stay on the inside or there will  
9 be a fight.").

10 41. The Bay Boys also conspire to  
11 exclude outsiders while they are in  
12 the water at Lunada Bay.

13 **Plaintiffs' Evidence:**

14 Blakeman Depo. 215:6-12 (surfers on  
15 the shore whistle at surfers in the water);  
16 Spencer Depo., 105:12-20, 106:6-12  
17 (Spencer observed that men in the water,  
18 including Defendant Blakeman, were  
19 coordinating with each other and with  
20 other men in the Rock Fort on the shore  
21 and "could tell they knew each other.");  
22 Wright Decl. ISO Motion for Class  
23 Certification ¶ 18 [Docket No. 159-9]  
24 ("I've seen Brant Blakeman, whom I  
25 understand to be a Bay Boy, surfing  
26 Lunada Bay on many occasions. ... In  
27 the water, he seems to direct other Bay

41. Plaintiffs' evidence lacks support  
that Defendant Lee is a member of the  
Bay Boys. Therefore, this fact is  
irrelevant to the claims against  
Defendant Lee.

1 Boys to sit close to visiting surfers. I’ve  
2 observed Bay Boys who seem to be  
3 assigned to visiting surfers—they’ll sit  
4 too close to the visitors, impede their  
5 movements, block their surfing, kick at  
6 them, splash water at them, and  
7 dangerously drop in on them. On one  
8 occasion, I saw people whom I believe to  
9 be Bay Boys in a boat with surfboards  
10 threatening visitors. In addition to  
11 Blakeman, I’ve seen Michael Papayans,  
12 Sang Lee, Alan Johnston, Charlie  
13 Ferrara, and David Mello engage in this  
14 activity.”).

15 42. The Bay Boys conspired on and  
16 before January 29, 2017 to  
17 coordinate an attack on Plaintiff  
18 Spencer. Defendant Blakeman  
19 and others participated.  
20 **Plaintiffs’ Evidence:**  
21 Wolff Decl., Ex. 40 [Defendant Lee Cell  
22 Phone Records at 0267-0269 (On  
23 January 29, 2016, Defendant Sang Lee  
24 made a significant number of phone calls  
25 to Bay Boys, including Charlie Mowat  
26 and David Melo. Defendant Lee  
27 contacted Mr. Mowat no less than 15

42. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.

1 times before 5:30 a.m. that morning.  
2 Defendant Lee and Mr. Mowat  
3 exchanged another 11 calls later that  
4 same day), 0273-0275 (Defendant Lee  
5 contacted or attempted to contact  
6 Defendant Brant Blakeman 62 times on  
7 January 29, 2017 during an  
8 approximately 30-minute timespan.  
9 These calls were between Defendant  
10 Lee’s cell phone and Defendant  
11 Blakeman’s cell phone and home phone.

12 43. The Bay Boys conspired on and  
13 before February 12, 2017 – the  
14 day before Plaintiff Diana Milena  
15 Reed was sexually harassed by  
16 Defendants Blakeman, Johnston,  
17 and Charlie Ferrara.  
18 **Plaintiffs’ Evidence:**  
19 Wolff Decl., ¶ 42 & Ex. 41 [Alan  
20 Johnston Chat Messages at entries 1037  
21 and 1038 (Defendant Johnston informed  
22 a friend on February 12, 2016 that he had  
23 heard about the City’s undercover  
24 operation planned for the next day,  
25 stating: “Could be a great help if ur there  
26 !!! Supposed to be a police setup at our  
27 spot calling all gards [sic].” Defendant

43. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.

1 Johnston’s friend responded “Fuck ok  
2 well I am gunna get up and try to crack it  
3 at BA cuz we’re short on crew as well  
4 but tide could very well plug it and I’ll  
5 shoot over. Either way I’ll hit u up in the  
6 morning early to see what’s the haps”].

7 44. The Bay Boys have developed a  
8 close friendship with City police  
9 officers, who look the other way  
10 when the Bay Boys break the law.  
11 Some Bay Boys make  
12 contributions to the Police  
13 Officers Association, in exchange  
14 for “badge” challenge coins that  
15 can be carried, and “badge” decals  
16 that can be placed on cars.

17 **Plaintiffs’ Evidence:**

18 Blakeman Depo. 243:3-244:17  
19 (Blakeman knows Sergeant Barber, Mr.  
20 Eberhard, Mr. Ackert, Mr. Hellinga,  
21 Captain Velez, and Rick Delmont;  
22 Blakeman has known Sergeant Barber  
23 for approximately 8 years and Mr.  
24 Ackert approximately 10 or 12 years);  
25 Barber Depo. 19:10, 25:1-6, 40:2-5  
26 (attended high school in Rancho Palos  
27 Verdes with Angelo Ferrara’s wife,

44. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.

1 Leonora), 93:14-21 (knows Michael  
2 Thiel), 124:5-12 (knows Tom Sullivan),  
3 129:12-16 (knows Sang Lee); 71:8-72:3  
4 (considers Charlie Mowat to be a friend;  
5 they've gotten to know each other over  
6 the years because Mr. Mowat "is a local  
7 guy" who went to Palos Verdes High  
8 School; Sergeant Barber has socialized at  
9 Mr. Mowat's house for barbecues and  
10 other events).

11 45. The City helps facilitate the Bay  
12 Boys' exclusion of outsiders from  
13 Lunada Bay.

14 **Plaintiffs' Evidence:**

15 Defendant Blakeman's Response to  
16 Plaintiff Spencer's First Set of Requests  
17 for Admissions to Defendant Blakeman  
18 ("Blakeman RFAs"), RFA Nos. 1, 2, 3, 6  
19 (though not a City employee, Defendant  
20 Blakeman used a City-issued cell phone  
21 for personal purposes from at least  
22 October 1, 2015 through April 30, 2016);  
23 Blakeman Depo., 14:10-11 (Q: "How  
24 long have you had your flip phone? A.  
25 Approximately, five years."), 15:9-17  
26 (his phone is provided by the City but  
27 he's not an employee); City's Responses

45. Plaintiffs' evidence lacks support that  
Defendant Lee is a member of the Bay  
Boys. Therefore, this fact is irrelevant to  
the claims against Defendant Lee.

1 to Plaintiff Spencer’s Second Set of  
 2 Requests for Admission (“City RFA”),  
 3 RFA Nos. 6 (no City emergency would  
 4 have warranted use of the cell phone), 7  
 5 (City paid the cell phone bill); Blakeman  
 6 Interrogatories, Interrogatory No. 14  
 7 (Blakeman only recently returned the  
 8 cell phone to the City - within 7 or 8  
 9 months of July 27, 2017); Barber Depo.  
 10 197:16-23 (“we don’t want to traverse  
 11 those trails [from the bluffs down to the  
 12 shoreline], because we may fall and  
 13 break our necks”), 105:25-10 (“Q. About  
 14 how many times had you been down  
 15 there [to the Rock Fort]? A. Maybe a  
 16 handful. Maybe four or five times. Q.  
 17 Four or five times in 20 years or so? A.  
 18 Yes.”).

19 46. With help from the City, the Bay  
 20 Boys act with impunity.  
 21 **Plaintiffs’ Evidence:**  
 22 Kepley Depo., 40:3-41:13 (PVE police  
 23 planned an undercover operation with  
 24 the Santa Monica Police Department  
 25 where Santa Monica officers agreed to  
 26 pose as surfers); 41:17-42:23 (the  
 27 undercover operation was canceled

46. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.

1 because the Bay Boys learned about the  
2 operation the day before it was supposed  
3 to occur and called the City Manager to  
4 question why the police would be  
5 undercover at Lunada Bay); Franklin  
6 Decl., Ex. 21, Bates CITY7087-  
7 CITY7096 (the undercover operation  
8 scheduled for February 13, 2016 was  
9 compromised when, on February 12,  
10 2016, Bay Boy Michael Thiel met with  
11 the City Manager and complained that  
12 Chief Kepley was “inappropriately  
13 utilizing police resources at Lunada Bay”  
14 and that he was aware the next day there  
15 was to be a “sting operation,” stating  
16 “something like, ‘I hope tomorrow isn’t  
17 the sting . . . better not be doing this  
18 tomorrow.’” The City Manager called  
19 Chief Kepley, informed him of his  
20 meeting with Mr. Thiel, after which time  
21 the undercover operation was canceled.  
22 Chief Kepley noted that “PVEPD is a  
23 small department with many long-  
24 tenured officers who police this small  
25 community.” Chief Kepley “mentioned  
26 Sergeant Steve Barber and Officer Ken  
27 Ackert as long-term employees who

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1 might interface with some of the Bay  
2 Boys.” An investigator hired by the City  
3 to determine the source of the leak noted  
4 that the PVEPD Property Clerk, Jaylin  
5 Albao, was in a relationship with former  
6 PVEPD officer Rick Delmont, who  
7 ““had a close relationship with the Bay  
8 Boys . . . perhaps Jaylin overheard  
9 something that either intentionally or  
10 accidentally conveyed it to Rick  
11 Delmont, and then he somehow maybe  
12 leaked out to a Bay Boy.’“); Johnston  
13 Depo. 80:15-83:13 (admits he knew in  
14 advance of the scheduled sting at Lunada  
15 Bay on February 13, 2016); Reed Decl.,  
16 ¶¶ 14-15 (the police witnessed Plaintiff  
17 Reed get verbally attacked by David  
18 Melo but did not intervene and instead  
19 refused to arrest him; the officers talked  
20 Plaintiff Reed out of surfing that  
21 morning and did nothing to David  
22 Melo); Reed Depo. 227:13-18 (Reed  
23 tried multiple times to contact the police  
24 and set up a time to identify the  
25 individuals who attacked her on  
26 February 13, 2016, but she had to “keep  
27 calling the police over and over . . . [and]

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1 it took a really long time and I felt like,  
 2 you know, they weren't doing enough to  
 3 help me with this."); 238:9-18 ("I do  
 4 remember speaking to someone from the  
 5 police department, you know, telling me  
 6 that it's not safe at Lunada Bay and why  
 7 would I want to go back, it's a rocky  
 8 beach and why would a woman want to  
 9 go to a rocky beach, and it just seemed  
 10 like they weren't doing much to help the  
 11 situation. I was also surprised that they  
 12 were, you know – they told me that – I  
 13 mean, they implied that women  
 14 shouldn't go down to rocky beaches; I  
 15 found that comment a little bit strange.");  
 16 239:15-19 ("I probably called maybe  
 17 three times, and, you know, I remember  
 18 then eventually I proceeded to retain my  
 19 attorneys because I felt like that was the  
 20 only course of action I could take  
 21 because the police weren't helping me");  
 22 Taloa Depo. 306:18-307:2 (Defendant  
 23 Papayans told Taloa the locals own the  
 24 police).

25 47. The Bay Boys continued to  
 26 conspire after this lawsuit was  
 27 filed.

47. Plaintiffs' evidence lacks support that  
 Defendant Lee is a member of the Bay  
 Boys. Therefore, this fact is irrelevant to



<p><b>1 Plaintiffs' Evidence:</b>  <b>2</b> Wolff Decl., ¶ 42 &amp; Ex. 41 [Johnston  <b>3</b> Text Messages at entries 759-761 (upon  <b>4</b> being informed that a lawsuit had been  <b>5</b> filed against him, Defendant Johnston  <b>6</b> texted several Bay Boys, including  <b>7</b> Michael Thiel, and stated: "Yeah saw  <b>8</b> that super gay!! Who narked my name!!  <b>9</b> So lame!!," to which his Bay Boy friend,  <b>10</b> Tom Sullivan, responded "I bet it was  <b>11</b> police chief he has photos of all of us she  <b>12</b> probably just picked from a line up don't  <b>13</b> trip to [sic] hard she has nothin it's not  <b>14</b> illegal to be annoying . . just be prepared  <b>15</b> for shit show . . ."), Chat Message at  <b>16</b> entry 1836 (Defendant Johnston texted a  <b>17</b> friend approximately a week after this  <b>18</b> lawsuit was filed, on April 6, 2016, with  <b>19</b> the following admission: "Haha stir the  <b>20</b> pot with heckling!! Bra us locs are  <b>21</b> getting sued over here for being locs")].</p>	<p>the claims against Defendant Lee.</p>
<p><b>22</b> 48. The Bay Boys conspired to  <b>23</b> withhold evidence in this case.  <b>24 Plaintiffs' Evidence:</b>  <b>25</b> Blakeman Depo. 14:23-25 (Defendant  <b>26</b> Blakeman claimed he could not  <b>27</b> remember his cell phone number at his</p>	<p>48. Plaintiffs' evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.</p>

1 deposition and provided Plaintiffs’  
2 counsel with an incorrect phone number,  
3 identifying the last four digits of his cell  
4 phone number as “7634”); Wolff Decl., ¶  
5 43 & Ex. 42 (Defendant Blakeman’s  
6 Response to Plaintiff Diana Reed’s First  
7 Set of Interrogatories, Interrogatory No.  
8 1, identifying the last four digits of his  
9 cell phone number as “7934”); Wolff  
10 Decl., ¶¶ 50 (In response to a request for  
11 production of documents seeking text  
12 messages with co-Defendants,  
13 Defendants Charlie and Frank Ferrara  
14 claimed not to possess any such  
15 evidence, whereas Defendant Sang Lee  
16 produced a privilege log showing a  
17 number of texts between himself and  
18 Defendants Charlie and Frank Ferrara  
19 during the relevant time period); Decl.  
20 Pooley, ¶¶ 21-22 (Defendant Johnston  
21 refused to make himself available for  
22 deposition until four days after filing a  
23 summary-judgment motion), 23-25  
24 (counsel for Defendant Blakeman failed  
25 to provide Plaintiffs with evidence  
26 submitted to the Court in support of his  
27 motion for summary judgment).

<p>1 49.Each of the Individual Defendants</p> <p>2 is a member of the Bay Boys.</p> <p>3 <b>Plaintiffs’ Evidence:</b></p> <p>4 See PAMF 12, 13, 15, 16, 22, 24-48.</p>	<p>49. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys.</p>
<p>5 50.Defendant Sang Lee is aware of</p> <p>6 and agrees with the Bay Boys’</p> <p>7 purpose or design to exclude the</p> <p>8 general public, particularly</p> <p>9 “outsiders” (or “kooks”), from</p> <p>10 visiting or surfing at Lunada Bay.</p> <p>11 <b>Plaintiffs’ Evidence:</b></p> <p>12 See PAMF 12, 13, 15, 16, 22, 24-48.</p>	<p>50. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.</p>
<p>13 51. Defendant Sang Lee undertook</p> <p>14 actions to further the Bay Boys’</p> <p>15 purpose and design, including</p> <p>16 following the Bay Boys’ rules,</p> <p>17 terms, or practices, harassing and</p> <p>18 intimidating “outsiders,” and/or</p> <p>19 encouraging, facilitating, or</p> <p>20 coordinating with other Bay Boys</p> <p>21 regarding such actions.</p> <p>22 <b>Plaintiffs’ Evidence:</b></p> <p>23 See PAMF 12, 13, 15, 16, 22, 24-48.</p>	<p>51. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.</p>
<p>24 52.Defendant Brant Blakeman is</p> <p>25 aware of and agrees with the Bay</p> <p>26 Boys’ purpose or design to</p> <p>27 exclude the general public,</p>	<p>52. This fact is irrelevant to the claims against Defendant Lee.</p>



1	particularly “outsiders” (or	
2	“kooks”), from visiting or surfing	
3	at Lunada Bay.	
4	<b>Plaintiffs’ Evidence:</b>	
5	See PAMF 12, 13, 15, 16, 22, 24-48	
6	53. Defendant Brant Blakeman	53. This fact is irrelevant to the claims
7	undertook actions to further the	against Defendant Lee.
8	Bay Boys’ purpose and design,	
9	including following the Bay Boys’	
10	rules, terms, or practices,	
11	harassing and intimidating	
12	“outsiders,” and/or encouraging,	
13	facilitating, or coordinating with	
14	other Bay Boys regarding such	
15	actions.	
16	<b>Plaintiffs’ Evidence:</b>	
17	See PAMF 12, 13, 15, 16, 22, 24-48.	
18	54. Defendant Alan Johnston is aware	54. This fact is irrelevant to the claims
19	of and agrees with the Bay Boys’	against Defendant Lee.
20	purpose or design to exclude the	
21	general public, particularly	
22	“outsiders” (or “kooks”), from	
23	visiting or surfing at Lunada Bay.	
24	<b>Plaintiffs’ Evidence:</b>	
25	See PAMF 12, 13, 15, 16, 22, 24-48.	
26	55. Defendant Alan Johnston	55. This fact is irrelevant to the claims
27	undertook actions to further the	against Defendant Lee.



<p>1 Bay Boys’ purpose and design,                  2 including following the Bay Boys’                  3 rules, terms, or practices,                  4 harassing and intimidating                  5 “outsiders,” and/or encouraging,                  6 facilitating, or coordinating with                  7 other Bay Boys regarding such                  8 actions.</p> <p>9 <b>Plaintiffs’ Evidence:</b>                  10 See PAMF 12, 13, 15, 16, 22, 24-48.</p>	
<p>11 56. Defendant Michael Papayans is                  12 aware of and agrees with the Bay                  13 Boys’ purpose or design to                  14 exclude the general public,                  15 particularly “outsiders” (or                  16 “kooks”), from visiting or surfing                  17 at Lunada Bay.</p> <p>18 <b>Plaintiffs’ Evidence:</b>                  19 See PAMF 12, 13, 15, 16, 22, 24-48.</p>	<p>56. This fact is irrelevant to the claims                  against Defendant Lee.</p>
<p>20 57. Defendant Michael Papayans                  21 undertook actions to further the                  22 Bay Boys’ purpose and design,                  23 including following the Bay Boys’                  24 rules, terms, or practices,                  25 harassing and intimidating                  26 “outsiders,” and/or encouraging,                  27 facilitating, or coordinating with</p>	<p>57. This fact is irrelevant to the claims                  against Defendant Lee.</p>



1	other Bay Boys regarding such	
2	actions.	
3	<b>Plaintiffs’ Evidence:</b>	
4	See PAMF 12, 13, 15, 16, 22, 24-48.	
5	58. Defendant Angelo Ferrara is	58. This fact is irrelevant to the claims
6	aware of and agrees with the Bay	against Defendant Lee.
7	Boys’ purpose or design to	
8	exclude the general public,	
9	particularly “outsiders” (or	
10	“kooks”), from visiting or surfing	
11	at Lunada Bay.	
12	<b>Plaintiffs’ Evidence:</b>	
13	See PAMF 12, 13, 15, 16, 22, 24-48.	
14	59. Defendant Angelo Ferrara	59. This fact is irrelevant to the claims
15	undertook actions to further the	against Defendant Lee.
16	Bay Boys’ purpose and design,	
17	including following the Bay Boys’	
18	rules, terms, or practices,	
19	harassing and intimidating	
20	“outsiders,” and/or encouraging,	
21	facilitating, or coordinating with	
22	other Bay Boys regarding such	
23	actions.	
24	<b>Plaintiffs’ Evidence:</b>	
25	See PAMF 12, 13, 15, 16, 22, 24-48.	
26	60. Defendant Frank Ferrara is aware	60. This fact is irrelevant to the claims
27	of and agrees with the Bay Boys’	against Defendant Lee.

<p>1 purpose or design to exclude the                  2 general public, particularly                  3 “outsiders” (or “kooks”), from                  4 visiting or surfing at Lunada Bay.                  5 <b>Plaintiffs’ Evidence:</b>                  6 See PAMF 12, 13, 15, 16, 22, 24-48.</p>	
<p>7 61. Defendant Frank Ferrara                  8 undertook actions to further the                  9 Bay Boys’ purpose and design,                  10 including following the Bay Boys’                  11 rules, terms, or practices,                  12 harassing and intimidating                  13 “outsiders,” and/or encouraging,                  14 facilitating, or coordinating with                  15 other Bay Boys regarding such                  16 actions.                  17 <b>Plaintiffs’ Evidence:</b>                  18 See PAMF 12, 13, 15, 16, 22, 24-48</p>	<p>61. This fact is irrelevant to the claims against Defendant Lee.</p>
<p>19 62. Defendant Charlie Ferrara is                  20 aware of and agrees with the Bay                  21 Boys’ purpose or design to                  22 exclude the general public,                  23 particularly “outsiders” (or                  24 “kooks”), from visiting or surfing                  25 at Lunada Bay.                  26 <b>Plaintiffs’ Evidence:</b>                  27 See PAMF 12, 13, 15, 16, 22, 24-48.</p>	<p>62. This fact is irrelevant to the claims against Defendant Lee.</p>



1	63. Defendant Charlie Ferrara	63. This fact is irrelevant to the claims
2	undertook actions to further the	against Defendant Lee.
3	Bay Boys’ purpose and design,	
4	including following the Bay Boys’	
5	rules, terms, or practices,	
6	harassing and intimidating	
7	“outsiders,” and/or encouraging,	
8	facilitating, or coordinating with	
9	other Bay Boys regarding such	
10	actions.	
11	<b>Plaintiffs’ Evidence:</b>	
12	See PAMF 12, 13, 15, 16, 22, 24-48.	

**Issue #4: Public Nuisance**

	<u><b>Plaintiffs’ Additional Material Facts:</b></u>	<u><b>Defendant Lee’s Response to Plaintiffs’ Additional Material Facts</b></u>
15		
16		
17	64. Palos Verdes Estates Shoreline	64. Undisputed. However, this fact is
18	Preserve and specifically Lunada	irrelevant to the claims against
19	Bay constitute an asset of priceless	Defendant Lee.
20	value, and exceptional and	
21	dramatic beauty. Lunada Bay is	
22	owned by the City and is a world	
23	class wave.	
24	<b>Plaintiffs’ Evidence:</b>	
25	City Responses to Plaintiffs’ Separate	
26	Statement Undisputed Material Facts	
27	ISO Class Certification [Docket	



1 No. 189] Nos. 1 (“Lunada Bay is owned  
 2 by the City of Palos Verdes Estates and  
 3 is a public beach”) (“Lunada Bay is a  
 4 unique world class surfing site, and  
 5 offers many recreational opportunities”),  
 6 5; Willis Decl. ISO Opp. to City MSJ,  
 7 ¶¶8, 9, 10, 11. 15 (“Lunada Bay is a  
 8 world class wave . . .”) and Ex. 4 (“Palos  
 9 Verdes Estates Shoreline Preserve  
 10 constitutes an asset of priceless value.”  
 11 p. 87) (Palos Verdes “has a shoreline of  
 12 exceptional and dramatic scenic  
 13 beauty . . .”) (p. 115); Barber  
 14 Depo. 112:18-22, Ex. 263 (“Q: And I’m  
 15 going to – 263 I’m going to put in front  
 16 of you, Sergeant Barber. Do you  
 17 recognize that as being a map of the  
 18 general Lunada Bay coastal area?  
 19 A: Yes.”)

20 65. The State of California granted  
 21 Lunada Bay and the rest of the  
 22 Palos Verdes Estates Shoreline  
 23 Preserve to the City, but it is  
 24 reserved for the People of  
 25 California.

26 **Plaintiffs’ Evidence:**

27 Willis Decl. Supp. Pltfs.’ Opp to City  
 28 Defs.’ MSJ. (“Willis Decl.”), ¶¶ 8-11.

65. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.

1 66. The Bay Boys have long acted to  
2 obstruct the public’s free access to  
3 Lunada Bay with the City’s  
4 knowledge.

5 **Plaintiffs’ Evidence:**

6 Franklin Decl., Ex. 21 at bates  
7 CITY7090 (“Chief Kepley told me that  
8 shortly after he was hired as chief of  
9 police he learned of a long history of  
10 alleged ‘bullying and hazing’ of out-of-  
11 town surfers at Lunada Bay by local  
12 surfers, often referred to as the ‘Bay  
13 Boys.’”), CITY7091 (Chief Kepley  
14 asked Captain Velez to organize a sting  
15 operation at Lunada Bay in November or  
16 December 2015, but “[h]e wasn’t quick  
17 to respond to that and over the next  
18 month or two I, I would you know, ask  
19 him again, and I think he was having  
20 difficulty organizing that.”); 171; Best  
21 Depo.30:16-25, 31:1-17; 150:1-25,  
22 151:1-25; 152:1-6.; 124:22-25, 125:1-25,  
23 126:1-25, 127:1-13; Kepley Depo.  
24 51:19-24 (“When this Guardian video  
25 came out, it caused a quick steep  
26 learning curve for me to learn some of  
27 the history. And I had heard people from

66. Plaintiffs’ evidence lacks support  
that Defendant Lee is a member of the  
Bay Boys. Therefore, this fact is  
irrelevant to the claims against  
Defendant Lee.

1 the community and staff members, and  
 2 all, tell me that there have been conflicts  
 3 and issues in the surfing culture for  
 4 many, many years, as many as 50 years  
 5 or more.”); Kepley Depo. 220:2-7 (“Q:  
 6 Sure. Do you think localism has been a  
 7 problem at Lunada Bay this year? A:  
 8 Yes. Q: Do you think localism was a  
 9 problem at Lunada Bay last year? A:  
 10 Yes); Placek Depo. 74:5-13; Siounit  
 11 Decl. ¶ 4 [Docket No. 308]; Franklin  
 12 Decl., Ex. 21 at Bates CITY7090  
 13 [Docket No. 324] (“Chief Kepley told  
 14 me that shortly after he was hired as  
 15 chief of police he learned of a long  
 16 history of alleged ‘bullying and hazing’  
 17 of out-of-town surfers at Lunada Bay by  
 18 local surfers, often referred to as the  
 19 ‘Bay Boys.’”); Spencer Depo., 55:11-  
 20 56:17, 67:8-10, 79:19-20 (for more than  
 21 30 years, Plaintiff Spencer, who lives in  
 22 the City of Norco, wanted to surf at  
 23 Lunada Bay but avoided it due to fear of  
 24 Lunada Bay and its reputation of  
 25 violence toward outsiders);

26 67. The Bay Boys exclude outsiders  
 27 the moment they step onto the

67. Plaintiffs’ evidence lacks support that  
 Defendant Lee is a member of the Bay

1 bluffs, making it known outsiders 2 are not welcome through their 3 words and acts. 4 <b>Plaintiffs' Evidence:</b> 5 Blakeman Depo. 25:25-26:2; Spencer 6 Depo. 98:8-15 (almost instantaneously 7 after arriving, Bay Boys called Spencer a 8 "kook" and told him he couldn't surf 9 there), 102:12-25 (Spencer was told 10 "'Why don't you fucking go home, you 11 fucking kook'" and "'How many other 12 good places did you pass to come 13 here?'" ), 103:21-104:5 ("Q. Did 14 anything else occur in the 20 minutes 15 [after your arrival] that caused fear for 16 you? A. Yes . . . It was more of a – more 17 of a closer, I guess, encounter with the 18 same language all the way down the 19 trail; jumping into the water; [the] same 20 individual just keep, you know, 21 heckling." ), 143:1-4, 9-22 (while 22 standing on the bluff, Bay Boys drove by 23 real slowly, called him names like 24 "kook," and Defendant Blakeman circled 25 him while "sticking his GoPro in our 26 faces for reasons we could only 27 determine were to identify us to their	Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.
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1 group so that they would know who we  
2 are.”), 144:21-25 (Spencer explained  
3 Blakeman’s behavior and its impact:  
4 “When you show up to a beach and  
5 someone that you know is one of the  
6 little – the local controllers/harassers of  
7 that place sticking a camera in your face,  
8 why is he doing that? To intimidate you  
9 and to make you feel uncomfortable.”);  
10 Spencer Decl. Supp. Pls.’ Mot. Class  
11 Cert. (“Spencer Decl.”) ¶ 11; Wolff  
12 Decl., ¶ 47 & Ex. 44 [Los Angeles  
13 Times photograph of Defendant  
14 Blakeman on the bluff video recording  
15 outsiders Ken Claypool and Chris  
16 Taloa].

17 68. Using the Rock Fort as a base, the  
18 Bay Boys restrict outsiders’ access  
19 to the shoreline and the water.

20 **Plaintiffs’ Evidence:**

21 Franklin Decl., Ex. 21 at Bates  
22 CITY7090 (“Kepley said there is a  
23 masonry stone patio located on the  
24 public coastline; however this structure  
25 is widely viewed as being owned or  
26 controlled by the Bay Boys.”); Spencer  
27 Depo., 198:25-199:8 (The Rock Fort

68. Plaintiffs’ evidence lacks support that  
Defendant Lee is a member of the Bay  
Boys. Therefore, this fact is irrelevant to  
the claims against Defendant Lee.

<p>1 “provides an operations point for [the 2 Bay Boys] to congregate and to prevent 3 people from using the beach; [] its very 4 existence prevents access.”); Lee Depo., 5 53:17-20 (Defendant Lee helped 6 improve the Rock Fort by adding “a little 7 roofing on the garage door. I put a cover 8 on like a – like a roofing material so that 9 it’s waterproof.”).</p>	
<p>10 69.The Bay Boys admit they obstruct 11 nonlocals’ free use of Lunada Bay. 12 <b>Plaintiffs’ Evidence:</b> 13 Lee Depo., 143:9-12 (Sang Lee deters 14 outsiders by “discourag[ing] them” from 15 surfing), 125:21-126:3, 68:16-18 16 (“personally, I probably would not like 17 to see other people”), 69:4-5 (“I probably 18 wouldn’t be happy about it”), 69:13 (“it 19 just ruins everything”), 185:12-15 (Sang 20 Lee explained that the reason there’s “a 21 lot of space” at Lunada Bay “is because 22 we keep it like that. We fucking hassle 23 people”), 186:11-22 (Sang Lee thinks he 24 may have told reporters at Lunada Bay 25 that they “shouldn’t fucking come down 26 here. Stay away from this area.”), 192:3- 27 5 (“I just wanted to discourage people,</p>	<p>69. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.</p>



1 outsiders coming in with no etiquette  
2 that take, that type”), 199:22-200:23 (“Q.  
3 Okay. The reason was to discourage  
4 people from coming to Lunada Bay and  
5 surfing; is that correct?” “A. Yeah  
6 yeah.”); Wolff Decl., ¶ 39 & Exs. 43  
7 [Transcript of C. Ferrara Audio  
8 Recording] and 38 [PLTF002027: “some  
9 newcomers come and screw up what we  
10 have going on here and, ach!”];  
11 Blakeman Depo. 220:13-25 (Defendant  
12 Blakeman believes it is acceptable to  
13 block someone from catching a wave at  
14 Lunada Bay), 222:19-223:2 (Defendant  
15 Blakeman admits that on January 29,  
16 2017, he got within two or three feet of  
17 Mr. Taloa and intentionally blocked him  
18 from catching waves at Lunada Bay),  
19 223:8-11 (Blakeman admits to  
20 “shadowing” or following Mr. Taloa  
21 while in the water on January 29, 2017.  
22 Blakeman admits that Mr. Taloa was  
23 “trying to get away” Blakeman but  
24 Blakeman continued to follow him);  
25 Franklin Declaration, Ex. 37 [The  
26 Guardian Video]; Wolff Decl., ¶ 39 &  
27 Exs. 43 [Transcript of C. Ferrara Audio

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1 Recording] and 38 [PLTF002027  
2 (Charlie Ferrara, stating: “I can’t tell you  
3 you can’t be down here. I can’t tell you  
4 that, you know. I can’t tell you you can’t  
5 go surfing, but what I can do is make  
6 sure you don’t have fun out there. You  
7 know what I mean? And then what’s the  
8 point of that? You’re going to come  
9 here when the surf’s good everywhere  
10 else and get burned and have a bad day?  
11 That’s, cuz that’s, you know, that’s what  
12 we’re gonna keep on doing. They want  
13 to come out we’re just gonna keep on  
14 burning them and make them have a bad  
15 session because we’re going to stick  
16 together and like attack cuz we are. We  
17 are family”; “They’ve been recorded and  
18 stuff while they’re, you know, rousting  
19 [outsiders] and get recorded and they get  
20 in trouble . . . that’s why now we’re not,  
21 you know, doing stuff, and now we’re  
22 just burning people.”]; Wolff Decl., Ex.  
23 8 [Exhibit 223 to Lee Deposition, Bates  
24 Lee 000000015 (Defendant Sang Lee  
25 reminded other Bay Boys in an email of  
26 their preferred strategy to exclude  
27 outsiders: “[I] do NOT want to see my

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1 friends get in trouble with the law /  
 2 theres [sic] other options to deterr [sic]  
 3 outsiders from surfing our home such as  
 4 we can ride together or its [sic] a long  
 5 walk up the trail in bare feet.”  
 6 Defendant Lee further explained that he  
 7 did not want to see other Bay Boys “so  
 8 fired up on trolls” that they “immediately  
 9 get[] into fights or threaten[] the  
 10 outsiders n [sic] get into trouble.”  
 11 Instead, he explained “THERES [sic]  
 12 OTHER OPTIONS THAN THREATS N  
 13 [sic] VIOLENCE TO MAKE THEIR  
 14 TIME IN OUR HOME A BUMMER.”)].

15 70. Defendants prevented Plaintiff  
 16 Spencer from enjoying the free  
 17 use of Lunada Bay on January 29,  
 18 2016.

19 **Plaintiffs’ Evidence:**

20 Spencer Decl. ¶ 12; Spencer Depo.,  
 21 105:7-20 (Blakeman paddled around  
 22 Spencer), 229:11-230:14 (“you’re  
 23 alleging that Mr. Blakeman was circling  
 24 you? A. I’m not alleging. He did circle  
 25 me – yes, I am alleging in the complaint,  
 26 yes. So, he did circle us. He did circle  
 27 me. Q. What’s ‘circle’? What do you

70. This fact is irrelevant to the claims  
 against Defendant Lee..(Lutz Decl. ¶2,  
 Exhibit A, Spencer Depo., p.308:4-14).

1 mean when he circles you? Is he going a  
 2 complete 360-degree circle around you?  
 3 A. Complete 360 in front; blocking;  
 4 obstructing. Q. What’s he obstructing  
 5 you from? A. Catching the waves. Q.  
 6 Well, why do you believe he’s  
 7 obstructing you from catching a wave? .  
 8 . . So, when someone is that close to you  
 9 in front of you when you’re trying to  
 10 paddle forward, you don’t want to paddle  
 11 and hit them; so when they’re in front of  
 12 you, they’re trying to prevent you from  
 13 catching waves. BY MR. WORGUL: Q.  
 14 Could they be trying to catch a wave as  
 15 well? . . . THE WITNESS: On that day,  
 16 in my opinion, Mr. Blakeman was  
 17 obstructing us from catching waves.”),  
 18 259:24-260:24 (Blakeman circled  
 19 Plaintiff Spencer in the water, stared him  
 20 down, prevented him from surfing, and  
 21 thrust his “camera in [the] face” of those  
 22 who attempt to access the beach, among  
 23 other things);

24 71. Defendants prevented Plaintiff  
 25 Spencer from enjoying the free  
 26 use of the public bluffs atop  
 27 Lunada Bay on February 5, 2016.

71. This fact is irrelevant to the claims  
 against Defendant Lee. (Lutz Decl. ¶2,  
 Exhibit A, Spencer Depo., p.307:11-14).

**1 Plaintiffs' Evidence:**  
**2** Spencer Decl. ¶ 23; Spencer Depo.,  
**3** 143:17-21 (“Defendant Blakeman [was]  
**4** constantly circling us, everybody who  
**5** was out there to surf that was not from  
**6** there; that’s not a Bay Boy; sticking his  
**7** GoPro in our faces for reasons we could  
**8** only determine were to identify us to  
**9** their group so that they would know who  
**10** we are.”), 144:17-19 (“Q. Did you feel  
**11** threatened by [Blakeman’s] behavior?  
**12** A. Of course.”), 142:20-143:7 (“Were  
**13** you harassed while you were watching  
**14** the property? A. You could – yes.  
**15** When people call you the same things  
**16** they called on the first visit, ‘kook,’ and,  
**17** you know, ‘What are you doing?’ Same  
**18** stuff, that’s harassment. I feel I was  
**19** harassed.”), 145:5-146:9 (while Spencer  
**20** stood on the bluff, Bay Boys drove by  
**21** slowly and called Spencer names); Wolff  
**22** Decl., ¶ 47 & Ex. 44 (A photographer  
**23** from the LA Times was present and took  
**24** a photo of Defendant Blakeman  
**25** following Plaintiff Spencer’s friends,  
**26** Jordan Wright and Christopher Taloa,  
**27** with his camera along the bluffs)].

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<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27</p>	<p>72. Defendants prevented Plaintiff Reed from enjoying free use of the bluffs and public area surrounding Lunada Bay on January 29, 2016.</p> <p><b>Plaintiffs' Evidence:</b></p> <p>Reed Depo. 119:25-120:16 (“Q. So at some point did you experience any harassment or intimidation when you were there on January 29th? A. Yes. Q. What was that? A. From what I recall when, you know, from the moment that we arrived we were experiencing harassment. Q. Okay, can you describe what the harassment was? A. I remember that people were circling around the car when we parked and, you know, some people yelled at us and said that we we’re kooks. And there were other people, other bay boys on the bluff that were looking at us and there were people recording us. So the situation there seemed very tense.”, 121:10-11 (“I remember at some point people telling us that we can’t surf there”), 130:11-14 (“I believe there was an instance of people telling us that we can’t surf there while we were on the bluff. There was the</p>	<p>72. This fact is irrelevant to the claims against Defendant Lee. (Lutz Decl. ¶4, Exhibit C, Reed depo, p.366:23-25; p.367:1-18 ).</p>
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28

1 constant harassment of video cameras  
2 everywhere, recording everything.”);  
3 Reed Decl., ¶ 8 (Plaintiff Reed was  
4 harassed by Bay Boys almost  
5 immediately after parking her car along  
6 the bluffs; she was called a “kook” and  
7 told she couldn’t surf there), 9 (a group  
8 of Bay Books were standing on the  
9 bluffs and told Plaintiff Reed should  
10 couldn’t surf there; Defendant Blakeman  
11 was recording Plaintiff Reed while she  
12 was on the bluffs), 10 (Plaintiff Reed  
13 met Plaintiff Spencer and recalls learning  
14 that he is a police officer and was run  
15 over in the water by another surfer that  
16 morning), 11 (after making her way  
17 down to the beach, Plaintiff Reed was  
18 verbally accosted by David Melo, who  
19 called her a “whore” and continued to  
20 yell and scream profanities at Plaintiff  
21 Reed; another Bay Boy told Reed to  
22 “watch out” and “be careful” and “don’t  
23 smash your pretty little face on the  
24 rocks.”), 15 (after being attacked by  
25 David Melo, Plaintiff reed was scared  
26 and changed out of her wetsuit into her  
27 clothes and left Lunada Bay without

<p>1 surfing because she was “completely 2 shaken up” and “felt unsafe to go into 3 the water” so she “decided to go home.”</p>	
<p>4 73. Defendants prevented Plaintiff 5 Reed from enjoying free use of 6 Lunada Bay on February 13, 2016 7 <b>Plaintiffs’ Evidence:</b> 8 Reed Depo. 167:17-168:2 (“I remember 9 when we were preparing to walk down 10 the trail, there was a man, middle-aged 11 blond haired man, and a teenage boy that 12 were filming us and they were 13 attempting to block the pathway, and 14 they were telling us that we were done, 15 whatever that means. I do remember 16 some people yelling at us when we were 17 on the bluff . . . I remember once we 18 were at the bottom of the hill on the 19 beach, I remember, you know, people 20 yelling at us, yeah, everyone seemed 21 pretty hostile.”), 170:12-171:5 (“I 22 remember that [Defendants Blakeman 23 and Johnston] approached me very 24 rapidly and I was caught by surprise. I 25 remember that they rushed towards me 26 in a hostile manner. I remember, you 27 know, declining that I wanted to drink</p>	<p>73. This fact is irrelevant to the claims against Defendant Lee.. (Lutz Decl. ¶4, Exhibit C, Reed depo, p.366:23-25; p.367:1-18 ).</p>



1 beer. I remember being videotaped by  
2 Brant Blakeman. I remember there were  
3 times when I was being videotaped very  
4 close to my face and it felt very  
5 intimidating and definitely felt like I was  
6 being harassed. And I think that I asked  
7 them, you know, why they're  
8 videotaping me because it made me very  
9 uncomfortable. I remember Mr.  
10 Johnston opening the can of beer in a  
11 way that sprayed my arm and my  
12 camera. I remember him chucking beer  
13 and throwing beer cans on the floor. I  
14 remember him being very loud and very  
15 scary, very intimidating, and acting in a  
16 sexual manner. Q. Where did this take  
17 place? A. These events took place in the  
18 [rock] fort.”), 175:8-15 (because of  
19 where Blakeman and Johnston were  
20 standing, Plaintiff Reed could not leave  
21 the rock fort), 177:7-8 (“I was not able to  
22 exit the fort, I was frozen in fear”),  
23 216:10-12 (“I remember at some point  
24 after that Jalian paddled out and left and  
25 I felt like it was safe to go back up the  
26 hill”), 177:19-178:2 (“I do remember  
27 asking, you know, why I was being

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1 filmed and, you know, being told that  
2 they're filming me because I'm sexy. I  
3 remember Mr. Johnston saying that he's  
4 big enough to get the job done while,  
5 you know, also, you know, he was also  
6 grunting and making – making moans  
7 and noises resembling, you know, an  
8 orgasm. He was, you know, thrusting  
9 and rubbing his torso in a sexual manner,  
10 just acting in a very – very frightening  
11 way.”), 219:15-18 (Blakeman was trying  
12 to intimidate Plaintiff Reed by holding  
13 his camera “right up to [her] face, you  
14 know, two feet from [her] face”),  
15 358:23-359:1 (“I do remember . . . while  
16 he had a towel on himself there was a  
17 moment when it seemed that he  
18 intentionally exposed his penis to me  
19 while he was changing”); Reed Decl. ¶¶  
20 16-18 (unable to surf because her arm  
21 was in a cast so she decided to go to  
22 Lunada Bay to take photographs of a  
23 friend while he surfed), 20 (while she  
24 was in the fort, a man entered and  
25 interrogated Plaintiff Reed, asking what  
26 her “mission objective” was and why she  
27 was there).

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1 2 3 4	74. Defendants have continued to obstruct Plaintiff Reed’s free passage at Lunada Bay since February 13, 2016.	74. This fact is irrelevant to the claims against Defendant Lee. (Lutz Decl. ¶4, Exhibit C, Reed depo, p.366:23-25; p.367:1-18 ).
5 6 7 8 9 10	75. Over the years, the Bay Boys have revised and perfected their strategy of exclusion, aiming to make outsiders’ experiences at Lunada Bay so miserable that they won’t come back.	75. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27	<b>Plaintiffs’ Evidence:</b> Wolff Decl., ¶ 39 & Exs. 43 [Transcript of C. Ferrara Audio Recording] and 38 [PLTF002027 (Charlie Ferrara, stating: “I can’t tell you you can’t be down here. I can’t tell you that, you know. I can’t tell you you can’t go surfing, but what I can do is make sure you don’t have fun out there. You know what I mean? And then what’s the point of that? You’re going to come here when the surf’s good everywhere else and get burned and have a bad day? That’s, cuz that’s, you know, that’s what we’re gonna keep on doing. They want to come out we’re just gonna keep on burning them and make them have a bad session because we’re going	

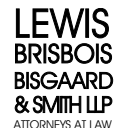
28

1 to stick together and like attack cuz we  
2 are. We are family”; “They’ve been  
3 recorded and stuff while they’re, you  
4 know, rousting [outsiders] and get  
5 recorded and they get in trouble . . .  
6 that’s why now we’re not, you know,  
7 doing stuff, and now we’re just burning  
8 people.”]; Wolff Decl., Ex. 8 [Exhibit  
9 223 to Lee Deposition, Bates Lee  
10 000000015 (Defendant Sang Lee  
11 reminded other Bay Boys in an email of  
12 their preferred strategy to exclude  
13 outsiders: “[I] do NOT want to see my  
14 friends get in trouble with the law /  
15 theres [sic] other options to deterr [sic]  
16 outsiders from surfing our home such as  
17 we can ride together or its [sic] a long  
18 walk up the trail in bare feet.”  
19 Defendant Lee further explained that he  
20 did not want to see other Bay Boys “so  
21 fired up on trolls” that they “immediately  
22 get[] into fights or threaten[] the  
23 outsiders n [sic] get into trouble.”  
24 Instead, he explained “THERES [sic]  
25 OTHER OPTIONS THAN THREATS N  
26 [sic] VIOLENCE TO MAKE THEIR  
27 TIME IN OUR HOME A BUMMER.”)].

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<b>Issue #5: Bane Act</b>	
<b><u>Plaintiffs’ Additional Material Facts:</u></b>	<b><u>Defendant Lee’s Responses to Plaintiffs’ Additional Material Facts:</u></b>
<p>76. The Lunada Bay shoreline and bluffs is City-owned land which may be accessed by the Public.</p> <p><b>Plaintiffs’ Evidence:</b> Willis Decl. Supp. Pltfs.’ Opp to City Defs.’ MSJ. (“Willis Decl.”), ¶¶ 8-11.</p>	<p>76. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.</p>
<p>77. The Bay Boys united – through common goals, symbols, and practices – to deprive Plaintiffs of their right to access the bluffs and shoreline through interference, intimidation, threats and coercion.</p> <p><b>Plaintiffs’ Evidence:</b> Lee Depo., 31:19-32:6 (Defendant Sang Lee has a “Lunada Bay” tattoo with a Trident head); 46:2-11, 47:10-14 (When it was in existence, Bay Boys would spend time together barbequing, drinking beer, and hanging out at the Rock Fort), 118:10-20, 119:14-15, 120:24-121:1, 123:7-8, 22-23 (although there is no “written rule book” there is “an</p>	<p>77. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. Therefore, this fact is irrelevant to the claims against Defendant Lee.</p>



1 understanding” among local surfers at  
2 Lunada Bay as to the ground rules for  
3 surfing there), 276:9-23 (Sang Lee  
4 admits to pouring beer on John  
5 MacHarg’s head one day at the Rock  
6 Fort), 285:18-26 (Bay Boys think of  
7 themselves as “pirates”); Wolff Decl.,  
8 Ex. 8 [Exhibit 222 to Lee Deposition,  
9 Bates Lee 00000001]; Johnston Depo.  
10 63:20-64:2, 166:21-167:7 (Lunada Bay  
11 tattoo); Spencer Decl. ¶ 12; Spencer  
12 Depo., 113:21 (“they all know each  
13 other”), 198:25-199:8 (The Rock Fort  
14 “provides an operations point for [the  
15 Bay Boys] to congregate and to prevent  
16 people from using the beach; [] its very  
17 existence prevents access.”); Spencer  
18 Depo., 259:24-260:24 (Blakeman circled  
19 Plaintiff Spencer in the water, stared him  
20 down, prevented him from surfing, and  
21 thrust his “camera in [the] face” of those  
22 who attempt to access the beach, among  
23 other things), 142:20-21, 146:23-147:14,  
24 149:12-23; Blakeman Depo. 223:8-11  
25 (shadowed Mr. Taloa’s movements and  
26 intentionally prevented him from  
27 catching waves); Spencer Decl. ¶ 22;

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1	Claypool Decl. ¶ 25 (when he finished	
2	surfing at Lunada Bay in January 2015,	
3	he saw Bay Boys gathering at the top of	
4	the bluff near the two trailheads and they	
5	were impeding movement); Taloa Depo.,	
6	354:17-355:3 (Defendant Papayans	
7	harassed Taloa at the bluff when he came	
8	to Lunada Bay to surf).	
9	78.The PVE PD officers rarely police	78. Undisputed. However, this fact is irrelevant to the claims against Defendant Lee.
10	along the shoreline at Lunada Bay	
11	or in the Rock Fort.	
12	<b>Plaintiffs’ Evidence:</b>	
13	Barber Depo. 105:25-106:10 (“Q. About	
14	how many times had you been down	
15	there [to the Rock Fort]? A. Maybe a	
16	handful. Maybe four or five times. Q.	
17	Four or five times in 20 years or so? A.	
18	Yes.”); Johnston Depo. 111:25-113:3	
19	(police tell the Bay Boys not to open	
20	their beer when the police are down at	
21	the Rock Fort).	

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24 **Issue #6: Assault**

25	<u><b>Plaintiffs’ Additional Facts</b></u>	<u><b>Defendant Lee’s Response to</b></u>
26		<u><b>Plaintiffs’ Additional Material Facts</b></u>
27	79.Plaintiff Reed was directly	79. This fact is irrelevant to the claims



1 assaulted (sexually and otherwise) against Defendant Lee.  
2 by Defendants Blakeman and  
3 Johnston.

4 **Plaintiffs' Evidence:**

5 Reed Depo. 219:9-21, 295:1-296:11,  
6 299:2-300:5, 304:13-317:19, 318:7-  
7 322:21, 329:7-10, 359:22-25; Reed  
8 Depo. 276:20-24 (“I felt – felt like I  
9 could have even been raped. I mean, it  
10 was incredibly frightening. I felt  
11 helpless. Just that whole memory of the  
12 event has caused me to be fearful and  
13 just really affected my piece of mind.”),  
14 329:7-10 (“through [Blakeman’s]  
15 behavior of being incredibly hostile and  
16 intimidating and frightening, he’s evoked  
17 a lot of fear in me, you know.”); 359:22-  
18 25 (“I remember there was a moment  
19 when he seemed like he purposefully  
20 removed his towel in order to expose  
21 himself”); Reed Decl. ISO Motion for  
22 Class Certification, ¶ 19; 21-23; 27-28  
23 (among other things, Defendants  
24 Blakeman and Johnston “rushed”  
25 Plaintiff Reed, approached her in a  
26 menacing manner, harassed her with  
27 sexually aggressive comments, and

<p>1 intentionally sprayed beer on her and her 2 camera.); Franklin Decl., ¶ 25, Ex. 17 3 [Docket No. 324] (“fucking sexy 4 baby...want to film it?”; “I seen you and 5 I think I touched myself a little bit”; “I 6 can do whatever I want.”).</p>	
<p>7 80. Several Bay Boys, including 8 Defendant Charlie Ferrara, were 9 present when Plaintiff Reed was 10 being assaulted, intentionally 11 contributing to the intimidating 12 presence and Plaintiff Reed’s 13 apprehension and fear, and 14 behaving in a manner showing 15 that they were complicit in, and 16 supported, the assault and 17 threatening behavior. 18 <b>Plaintiffs’ Evidence:</b> 19 Reed Depo., 317:25-318:6; Reed Decl. 20 ISO Motion for Class Certification, ¶¶ 21 21-25; Blakeman Depo. 78:2-9, 101:11- 22 16, 238:23-239:9; Frank Ferrara Depo. 23 217:2-9 (Q. Did you ever talk to your 24 son Charlie about what happened at the 25 fort that day? A. At the patio, yes. Q. 26 And what did he say? A. He said he 27 was, um – he said he was a little</p>	<p>80. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. The fact is irrelevant to the claims against Defendant Lee.</p>



1 discouraged by how they talked to  
2 Diana. And he didn't agree with it. And  
3 he went surfing.”; C. Ferrara Depo.  
4 118:15-11; Wolff Decl., ¶ 39 & Exs. 43  
5 [Transcript of C. Ferrara Audio  
6 Recording] and 38 [PLTF002027  
7 (Charlie Ferrara explaining to Plaintiff  
8 Reed that she was “roust[ed]” by the Bay  
9 Boys “because you’re a newcomer. You  
10 don’t, you didn’t know how to approach  
11 it.”; Charlie Ferrara also explained that  
12 “it’s also scary being a guy when you  
13 have guys barking at you, too, you know.  
14 It’s scary when you’re a guy and you  
15 have fuckin’ ten guys you know like,  
16 you know, getting’ gnarly on you.”)].

17 81. Defendant Blakeman withheld  
18 evidence of the attack from the  
19 police.  
20 **Plaintiffs’ Evidence:**  
21 Barber Depo. 150:11-21 (“they had  
22 found out that Mr. Blakeman had  
23 possibly videotaped the incident, so  
24 because I have a better rapport with  
25 Brant Blakeman, [Luke Hellinga] asked  
26 me to go and ask him if he has a copy of  
27 it. Q. And do you know what happened?

81. This fact is irrelevant to the claims  
against Defendant Lee.

1 A. Brant said, ‘I don’t have anything.  
2 I’m sorry.’ Q. So he told you, ‘I don’t  
3 have any video of that’? A. He wouldn’t  
4 – well, I mean, I wouldn’t say he  
5 wouldn’t cooperate, but he just said, ‘No,  
6 I have nothing. I really don’t want to  
7 comment on it.’“); Blakeman Depo.  
8 241:25-242:24; *see also* Franklin Decl.,  
9 Ex. 17 [video of 2/13/16 incident, Bates  
10 No. DEFT.BB081 and DEFT.BB082]  
11 [Docket No. 324].

12 82.Plaintiff Spencer was also directly  
13 assaulted by Defendant Blakeman,  
14 along with other Bay Boys.

15 **Plaintiffs’ Evidence:**

16 Spencer Depo. at 98:5-117:5; 142:24-  
17 144:19; 172:13-175:12; 223:8-11  
18 (Plaintiff Spencer recounting being  
19 assaulted and battered by Bay Boys,  
20 including Defendant Blakeman); 110:20-  
21 24 (“Q. Were you fearful of being  
22 further injured after that point? A That’s  
23 an understatement. Q So is the answer  
24 yes? A Yes.”); 113:25-114:1 (“we  
25 decided that was – it’s getting too crazy  
26 out here, and more and more [Bay Boys]  
27 started showing up on the fort.”).

82. Plaintiffs’ evidence lacks support  
that Defendant Lee is a member of the  
Bay Boys. This fact is irrelevant to the  
claims against Defendant Lee.

<p>1 Spencer Decl. ISO Motion For Class                  2 Certification, ¶¶ 11-23 (same); Spencer                  3 Decl. ISO Class Cert. ¶ 12; Blakeman                  4 Depo. 223:8-11.</p>	
<p>5 83.The Bay Boys also committed                  6 battery against Plaintiff Spencer,                  7 with Defendant Blakeman present                  8 and directly participating, when a                  9 Bay Boy intentionally collided                  10 with Plaintiff Spencer while                  11 surfing, leaving him with a serious                  12 laceration on his hand.                  13 <b>Plaintiffs’ Evidence:</b>                  14 Spencer Depo. at 98:5-117:5; 142:24-                  15 144:19; 172:13-175:12; 223:8-11                  16 (Plaintiff Spencer recounting being                  17 assaulted and battered by Bay Boys,                  18 including Defendant Blakeman); Spencer                  19 Decl. ISO Motion For Class                  20 Certification, ¶¶ 11-23 (same).</p>	<p>83. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. This fact is irrelevant to the claims against Defendant Lee.</p>
<p>21 84.There is ample evidence that the                  22 Bay Boys, including each of the                  23 Individual Defendants, acted with                  24 a common scheme and design to                  25 utilize intimidation, threats, and                  26 physical violence when necessary                  27 to enforce unwritten rules in</p>	<p>84. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. This fact is irrelevant to the claims against Defendant Lee.</p>



1 Lunada Bay, including the  
 2 exclusion of perceived “outsiders”  
 3 like Plaintiffs.  
 4 **Plaintiffs’ Evidence:**  
 5 Lee Depo. 118:10-20, 119:14-15,  
 6 120:24-121:1, 123:7-8, 22-23 (although  
 7 there is no “written rule book” there is  
 8 “an understanding” among local surfers  
 9 at Lunada Bay as to the ground rules for  
 10 surfing there); Johnston Depo. 63:20-  
 11 64:2; Spencer Decl. ¶ 12; Spencer Depo.,  
 12 113:21 (“they all know each other”).

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 14 **Issue #7: Battery**

15 **Plaintiffs’ Additional Material Facts:**

16  
 17 85. Defendant Johnston directly  
 18 committed battery on Plaintiff  
 19 Reed when he intentionally  
 20 sprayed beer on her and her  
 21 camera  
 22 **Plaintiffs’ Evidence:**  
 23 Reed Depo. 170:23-24 (“I remember Mr.  
 24 Johnston opening the can of beer in a  
 25 way that sprayed my arm and my  
 26 camera.”); 218:15-22; 301:1-15; 313:13-  
 27 317:19; Franklin Decl., Ex. 17 [video of

**Defendant Lee’s Response to**

**Plaintiffs’ Additional Material Facts:**

85. This fact is irrelevant to the claims against Defendant Lee.

1	incident filed by Defendant Blakeman]	
2	[Docket No. 324].	
3	86.The Bay Boys also committed	86. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. This fact is irrelevant to the claims against Defendant Lee.
4	battery against Plaintiff Spencer,	
5	with Defendant Blakeman present	
6	and directly participating, when a	
7	Bay Boy intentionally collided	
8	with Plaintiff Spencer while	
9	surfing, leaving him with a serious	
10	laceration on his hand.	
11	<b>Plaintiffs’ Evidence:</b>	
12	Spencer Depo. at 98:5-117:5; 142:24-	
13	144:19; 172:13-175:12; 223:8-11	
14	(Plaintiff Spencer recounting being	
15	assaulted and battered by Bay Boys,	
16	including Defendant Blakeman); Spencer	
17	Decl. ISO Motion For Class	
18	Certification, ¶¶ 11-23 (same).	
19	87.Each of these attacks on Plaintiffs	87. Plaintiffs’ evidence lacks support that Defendant Lee is a member of the Bay Boys. This fact is irrelevant to the claims against Defendant Lee.
20	Spencer and Reed were	
21	coordinated and carried out with	
22	assistance from other Bay Boys.	
23	<b>Plaintiffs’ Evidence:</b>	
24	Lee Depo. 118:10-20, 119:14-15,	
25	120:24-121:1, 123:7-8, 22-23 (although	
26	there is no “written rule book” there is	
27	“an understanding” among local surfers	
28		



1 at Lunada Bay as to the ground rules for  
 2 surfing there); Johnston Depo. 63:20-  
 3 64:2); Spencer Decl. ¶ 12; Spencer  
 4 Depo., 113:21 (“they all know each  
 5 other”).

6  
 7 **Issue #8: Spoliation- Defendants’ Destruction of Evidence**

8 <b><u>Plaintiffs’ Additional Material Facts:</u></b> 9	<b><u>Defendant Lee’s Response to</u></b> <b><u>Plaintiffs’ Additional Material Facts:</u></b>
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10 88. Defendants Charlie Ferrara and  
 11 Frank Ferrara ignored their duty to  
 12 preserve evidence in this matter,  
 13 resulting in the spoliation of  
 14 critical evidence.

15 **Plaintiffs’ Evidence:**  
 16 Wolff Decl., ¶¶ 51 (Despite being served  
 17 with document requests for cell phone  
 18 records in November 2016, neither  
 19 Charlie Ferrara nor Frank Ferrara  
 20 attempted to obtain documents until  
 21 approximately June or July 2017), 52  
 22 (despite being ordered by Magistrate  
 23 Judge Oliver to produce all cell phone  
 24 bills and text messages, counsel for  
 25 Defendants Charlie and Frank Ferrara  
 26 ignored the Court’s order and failed to  
 27 produced Defendant Charlie Ferrara’s

88. This fact is irrelevant to the  
 claims against Defendant Lee.

1 cell phone data), 53 (due to Defendants  
 2 Charlie and Frank Ferrara’s failure to  
 3 preserve evidence, their cell phone  
 4 records only date back to February 21,  
 5 2016, and are missing critical data from  
 6 the dates the Plaintiffs were harassed and  
 7 attacked – January 29, 2016, February 5,  
 8 2016 and February 13, 2016) & Ex. 4 at  
 9 164:13-165:7 (Charlie Ferrara testified  
 10 that he hasn’t “really tried that hard” to  
 11 locate his cell phone bills), 172:25-4  
 12 (Charlie Ferrara has not done anything to  
 13 preserve the information that is on his  
 14 phone, including photographs and text  
 15 messages); *see also* Docket No. 267  
 16 (ordering Defendants Charlie and Frank  
 17 Ferrara to produce documents).

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DATED: August 17, 2017

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